

2003 LEGISLATIVE IMPLEMENTATION PLAN

WASHINGTON STATE DEPARTMENT OF FISH AND WILDLIFE



Sound Stewardship of Fish & Wildlife

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2003 LEGISLATIVE IMPLEMENTATION PLAN

August 2003

PREPARED BY

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**STATE OF WASHINGTON
DEPARTMENT OF FISH AND WILDLIFE
2003 LEGISLATIVE IMPLEMENTATION PLAN**

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COMMERCIAL FISHING VIOLATIONS

Substitute House Bill 1057

BACKGROUND

A commercial fishing violation is generally punishable as a misdemeanor, gross misdemeanor, or a felony. Misdemeanor violations are punishable by up to 90 days in jail and a fine of up to \$1,000. Gross misdemeanors are punishable by up to one year in jail and a fine of up to \$5,000, and felonies can result in a prison sentence of up to 10 years and a fine of up to \$20,000.

In addition to criminal sanctions, the Director of the Washington State Department of Fish and Wildlife (WDFW) must suspend all commercial fishing privileges for a person who is convicted of two gross misdemeanors or felonies involving commercial fishing within a five-year period. Suspended licenses may not be transferred or used by an alternate operator. WDFW may also issue a life suspension if it finds willful or wanton disregard for the conservation of fish or wildlife.

Commercial fishing licenses must be applied for or renewed by December 31 of each year. However, this deadline does not apply if a license or permit was not renewed because of the death of the license holder. If this occurs, the surviving spouse, estate, or estate up at least 6 percent of the total harvest.

For a violation of regulations for fish, other than groundfish and coastal

beneficiary must be given a reasonable opportunity to renew the license or permit.

SUMMARY

The WDFW Director has discretionary authority to suspend a person's privileges to participate in a particular commercial fishery if that person has been convicted of two or more "qualifying commercial violations" within a three-year period. Suspensions may not exceed one year and a suspended license may not be transferred or used by an alternate operator if the person committing the violations is the license holder, and not an alternate operator. Any suspension is in addition to the criminal penalties attached to the underlying criminal violation.

A commercial fishing violation can be judged as a "qualifying commercial violation" a number of ways; however, all qualifying commercial violations must first be either a gross misdemeanor or a felony. To qualify, certain violations must involve a specific minimum amount of harvested product. For shellfish harvesters, including crab, all qualifying commercial violations must involve at least 50 individual unlawfully harvested shellfish, and those unlawful shellfish must make pelagic baitfish, to qualify as a minimum commercial fishing violation, the total weight of the unlawful portion of the harvest must be greater than 6 percent

of the total harvest, and the unlawful portion of the harvest must be valued at greater than \$250. Violations of groundfish and coastal pelagic baitfish fisheries are considered qualifying violations if the unlawfully harvested individuals total greater than 10 percent of the total catch and are valued at more than \$500. Alternatively, for a groundfish or coastal pelagic baitfish species that is categorized as over-fished by the National Marine Fisheries Service, a harvest volume that is greater than 10 percent of the harvest limit allowed by WDFW for that fishery is also considered a qualifying violation.

Some violations are considered to be qualifying commercial violations regardless of the amount of product involved. These violations are: fishing without a license, chartering without a license, using unlawful gear or an unlawful method, using a non-designated vessel, fishing at an improper time, participating in a treaty fishery, using illegal nets, and using a commercial vessel for recreational pursuits.

In addition to fishers who have been convicted of two qualifying commercial violations within three years, the WDFW Director may recommend license suspension if one violation is judged by the Director to be of a severe magnitude. The Director may also recommend license suspension for an individual that has been convicted of a shellfish violation involving 500 or more unlawfully harvested shellfish valued at greater than \$2,500, if the quantity of unlawful shellfish totals more than 20 percent of the harvest.

Any commercial fisher that is issued a suspension order from the WDFW Director may appeal that suspension to the License Suspension Review Committee (Committee). The Committee is appointed by the Fish and Wildlife Commission (Commission) and is composed of two WDFW employees and three commercial fishers from different counties. In addition, the Commission can name up to four alternative members that may vote when one of the regular members is unavailable or has been recused.

The Committee must hear and decide on all appeals within three months, during which time the members can collect information and hear testimony regarding any extenuating circumstances surrounding a violation. The majority decision of the Committee is a recommendation to the Director of WDFW, and the Committee may suggest waiving, decreasing, or increasing the suspension length set by the Director.

Fishers that receive a suspension notice from the Director have 31 days to file an appeal with the Committee. After 31 days the right to an appeal is considered waived and the suspension period commences.

The attorney in fact, guardian, spouse, estate, or beneficiary of a fisher who has died or become incapacitated may renew that fisher's commercial license within 180 days.

RESOURCE IMPACTS

None

FUNDING IMPACTS

Minor impact from travel reimbursement to the commercial fishing members of the Commercial Fishing License Suspension Review Committee.

FUNDING SOURCE

General Fund – State and Wildlife Fund – State to be absorbed from existing appropriations.

COMMITTEES CREATED

Commercial Fishing License Suspension Review Committee

WORK PLAN

- By the end of June 2003 - Distribute letter from Commission Chair to professional organizations that represent commercial fishing interests, and to the legislative authority of selected Washington counties, to solicit recommendations to the Commission for peer-group members of the committee (3 members and up to 4 alternates).
- By mid-July 2003 - Submit recommendation to the Director for appointment of two (2) WDFW employees to the committee.
- By mid-August 2003 - Commission takes formal action to appoint peer-group members of the committee (from different counties). WDFW Director appoints employee members.
- By end of September 2003 – Peer-group appointees submit signed agency volunteer forms to become eligible for travel expense compensation pursuant to RCW 43.03.050 and 43.03.060.

WDFW Director's Office determines source of funding within the agency for peer-group member travel reimbursement.

- By mid-October 2003 – Select agency staff conduct training session with committee members regarding the new statutory process, and to decide any procedural issues.
- During FY 2004 – WDFW proposes rules for Commission adoption establishing minimum committee member standards for service on the license suspension review committee, and standards for terminating a member prior to expiration of his or her term.

TIMETABLE

Law becomes effective July 27, 2003. Committee established by mid- October 2003.

LEGISLATIVE REPORTS

None

WDFW STAFF CONTACT

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FINAL BILL REPORT

SHB 1057

C 386 L 03

Synopsis as Enacted

Brief Description: Creating the license suspension review committee.

Sponsors: By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Hatfield, Buck, Blake and Kessler).

House Committee on Fisheries, Ecology & Parks
Senate Committee on Parks, Fish & Wildlife

Background: A commercial fishing violation is generally punishable as either a misdemeanor, gross misdemeanor, or a felony. Misdemeanor violations are punishable by up to 90 days in jail and a fine of up to \$1,000. Gross misdemeanors are punishable by up to one year in jail and a fine of up to \$5,000, and felonies can result in a prison sentence of up to 10 years and a fine of up to \$20,000.

In addition to criminal sanctions, the Director of the Department of Fish and Wildlife (Department) must suspend all commercial fishing privileges for a person who is convicted of two gross misdemeanors or felonies involving commercial fishing within a five-year period. Suspended licenses may not be transferred or used by an alternate operator. The Department may also issue a life suspension if it finds willful or wanton disregard for the conservation of fish or wildlife.

Commercial fishing licenses must be applied for or renewed by December 31 of each year. However, this deadline does not apply if a license or permit was not renewed because of the death of the license holder. If this occurs, the surviving spouse, estate, or estate beneficiary must be given a reasonable opportunity to renew the license or permit.

Summary: The Director of the Department has discretionary authority to suspend a person's privileges to participate in a particular commercial fishery if that person has been convicted of two or more "qualifying commercial violations" within a three-year period. Suspensions may not exceed one year and a suspended license may not be transferred or used by an alternate operator if the person committing the violations is the license holder, and not an alternate operator. Any suspension is in addition to the criminal penalties attached to the underlying criminal violation.

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qualifying commercial violations must involve at least 50 individual unlawfully harvested shellfish, and those unlawful shellfish must make up at least 6 percent of the total harvest.

For a violation of regulations for fish, other than groundfish and coastal pelagic baitfish, to qualify as a minimum commercial fishing violation, the total weight of the unlawful portion of the harvest must be greater than 6 percent of the total harvest, and the unlawful portion of the harvest must be valued at greater than \$250. Violations of groundfish and coastal pelagic baitfish fisheries are considered qualifying violations if the unlawfully harvested individuals total greater than 10 percent of the total catch and are valued at more than \$500. Alternatively, for a groundfish or coastal pelagic baitfish species that is categorized as over-fished by the National Marine Fisheries Service, a harvest volume that is greater than 10 percent of the harvest limit allowed by the Department for that fishery is also considered a qualifying violation.

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Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	46	0	(Senate amended)
House	91	0	(House concurred)

Effective: July 27, 2003
May 20, 2003 (Section 5)

Roll Calls on a Bill: 1057 (2003-04)

Brief Description: Creating the license suspension review committee.

2003 Regular Session

Chamber: HOUSE
Bill No.: SHB 1057
Description: FINAL PASSAGE
Item No.: 18
Transcript No.: 31
Date: 02-12-2003

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representative Sehlin

2003 Regular Session

Chamber: SENATE
Bill No.: SHB 1057
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE SENATE
Item No.: 6
Transcript No.: 89
Date: 04-11-2003

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

2003 Regular Session

Chamber: SENATE
Bill No.: SHB 1057
Description: FINAL PASSAGE AS AMENDED BY THE SENATE
Item No.: 10
Transcript No.: 101
Date: 04-23-2003

Yeas: 46 Nays: 00 Absent: 00 Excused: 03

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

Excused: Senators Hale, Poulsen, West

2003 Regular Session

Chamber: HOUSE
Bill No.: SHB 1057
Description: FP AS AMD BY THE SENATE
Item No.: 1
Transcript No.: 102
Date: 04-24-2003

Yeas: 91 Nays: 00 Absent: 00 Excused: 07

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway,

Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Edwards, Grant, Kessler, McDonald, McIntire, Pflug, Sullivan

LIMITING IMPACT ON SMALL FOREST LANDOWNERS CAUSED BY FOREST ROAD MAINTENANCE AND ABANDONMENT REQUIREMENTS

Second Substitute House Bill 1095

BACKGROUND

History of the Forests and Fish Law

The Forest and Fish Report was presented to the Forest Practices Board (Board) and the Governor's Salmon Recovery Office on February 22, 1999. The report represented the recommendations of the authors for the development and implementation of rules, statutes, and programs designed to improve and protect riparian habitat on non-federal forest lands in Washington.

In 1999 the Legislature recognized the Forest and Fish Report by passing the Forests and Fish Law. The law strongly encouraged the Board to adopt emergency rules implementing the recommendations of the Forest and Fish Report. These recommendations included the requirement that all forest landowners be required to file a road maintenance and abandonment plan (RMAP).

RMAP Requirements

All forest landowners must submit a RMAP to the Department of Natural Resources (DNR) for at least 20% of their ownership each year, or concurrent with an application for a forest practice, whichever is sooner. Forest landowners must have their entire ownership covered by a RMAP by December 31, 2005. The RMAP must

contain ownership maps, a schedule to complete necessary roadwork within 15 years, standard road maintenance practices, a storm maintenance strategy, and an assessment of risks to public resources.

On each anniversary date of a RMAP's submission, the owner must file with the DNR a detailed description of the work that was accomplished the previous year and the work that is scheduled for the upcoming year. If the landowner decides not to maintain a road, he or she must indicate in the RMAP a schedule for abandoning the road.

If a landowner fails to submit a RMAP, or to comply with the work schedule outlined in the RMAP, the DNR may deny future forest practice applications made by that landowner. In addition, the RMAP requirement is considered a continuing forest land obligation. All such obligations must be disclosed by the seller of forest land to the buyer prior to sale. If the seller fails to disclose these obligations, the seller is responsible for paying the costs incurred by the buyer for compliance with the obligations.

SUMMARY

Definitions

The term "small forest landowner" is defined consistently with other locations in the Revised Code of Washington.

The definition of small forest landowner is generally a person or entity that harvests an average of two million board feet or less each year.

The term "forest road" is generally defined to mean any road or road segment that crosses over forest land. "Forest land" is defined to exclude residential home sites and agricultural land. "Fish passage barrier" is defined to mean any artificial instream structure that impedes the free passage of fish.

RMAP Reporting Requirements

The Board is instructed to adopt emergency rules by October 31, 2003, for RMAPs that are different from the recommendations of the Forest and Fish Report. Forest landowners that own a total of 80 acres or less of forest land are not required to submit an RMAP for blocks of forest land that are 20 contiguous acres or less in size.

Landowners that do not meet the 20-acre exemption, but still satisfy the definition of a small forest landowner, are only required to file a checklist RMAP and are exempted from the annual reporting requirement. Unlike standard RMAPs, checklist RMAPs do not need to be filed until the landowner files a forest practice application for a final or intermediate harvest, or for a tree salvage. The checklist RMAP must be limited in scope to the current law, and may only apply to forest roads affected by a forest practice application.

Cost-Share Funding

The Small Forest Landowners Office (SFLO) must seek out funding to implement a cost-sharing program to

assist small forest landowners with the costs of removing and replacing culverts and other man-made fish passage barriers.

The SFLO is directed to seek the highest possible proportion of public funding available; however, a small forest landowner is only required to contribute 25 percent of the cost of any fish barrier or culvert removal. In no instance will a small forest landowner be required to contribute more than \$5,000 towards a particular fish barrier. If a small forest landowner is required to remove a culvert that was lawfully installed, the cost-share program will pay for 100 percent of that culvert's removal costs. In addition, the annual amount that a small forest landowner can be required to pay for fish barrier removal is calculated from the amount of timber he or she harvested in the three years leading to the fish barrier removal.

If a small forest landowner is required to pay for a portion of a road maintenance project, that landowner can satisfy his or her share by providing in-kind services. In-kind services can include labor, equipment, and materials.

Limited funds for the cost-share program are directed to be applied in a worst first manner within a watershed. The DNR is responsible for establishing an order for providing funds that is aimed at first addressing the priority barriers. In establishing this order, the DNR must coordinate with the Department of Fish and Wildlife and salmon recovery lead entities to establish an annually-updated ranked inventory of fish barriers on land owned by small forest landowners. This process first requires that all known data

about the locations and impacts of fish barriers be gathered and synthesized. The funding order may be altered to reflect the addition of new information.

Forest Practices Application Approvals

Small forest landowners will not have a forest practices application denied solely on the grounds that fish barriers have not been removed if the landowner agrees to remove the fish barriers when cost-share funding is available. The participating landowner will be able to conduct all otherwise permissible forest practices until the cost-share program provides funding for the removal of barriers on his or her land.

Continuing Obligations

The checklist RMAP requirement is exempted from the continuing forest land obligations provision of the Forests and Fish Law. The seller of forest land is not required to notify the buyer in writing of the existence of the checklist RMAP requirement. The checklist RMAP requirement is also removed from the express requirement that the seller pay for any continuing obligations that were not disclosed to the buyer.

RESOURCE IMPACTS

RMAPs: While there is some risk to resources from the bill, impacts are expected to be relatively minimal. Landowners who own less than 80 acres are not required to do RMAPs for parcels 20 acres or less. Thus there may be some impact to aquatic resources from these landowners not having to do road plans. Small forest landowners will be utilizing the RMAP checklist, which should result in

relatively good plans, and should actually make it much easier for small landowners to do a plan. The educational brochure and workshops, to be developed by DNR, will also assist in minimizing impacts. Potential impacts may occur as a result of checklist RMAPs not required to be filed until the landowner submits a forest practice application. However, DNR is charged with monitoring the extent of checklist RMAP implementation and report to the Legislature in 2008 and 2013.

Fish Passage Barriers: Because many small forest landowners do not have the financial ability to comply with the Forest Practices Rules and remove fish passage barriers, the cost-share program may accelerate barrier removals. In addition, removing barriers in the worst first fashion on small landowner property in a watershed may provide more immediate habitat benefits than the existing rules would.

FUNDING IMPACTS

The Washington Department of Fish and Wildlife (WDFW) originally requested funding for 3.9 FTEs, but received 1.1 FTEs. Those involved in the bill, including the Legislature, recognized that this project will ramp-up. The first year or two will focus on program development in at least two areas of the state containing large numbers of small forest landowners. WDFW may request additional funding through the supplemental budget, based on this early experience.

FUNDING SOURCE

Funding source is General Fund-State.

COMMITTEES CREATED

None

WORK PLAN

Complete the Classification Questionnaire (CQ) for the RMAP Program Administrator. Hire a Fish & Wildlife Biologist 4. Meeting required between WDFW and DNR staff, as well as stakeholders to begin program development, outline tasks, timelines, etc.

Major duties of the Program Administrator include:

- Working with lead entities and other local watershed groups to gather and synthesize all available existing information about the locations and impacts of fish passage barriers from sources including limiting factors analysis, WDFW Salmon and Steelhead Stock Inventory (SASSI) and Salmon and Steelhead Habitat Inventory and Assessment Project (SSHIAP) data and other comparable science-based assessments.
- Leading WDFW's efforts to implement existing methods and protocols for gathering and prioritizing fish passage barrier information, and if needed, helping to develop other methods and protocols suitable to the program.
- Assisting in training lead entities and others on the methods and protocols for gathering new barrier information.

- Assisting lead entities in acquiring data to fill any gaps in barrier information, including coordinating with DNR in assisting with funding acquisition
- Synthesizing and distributing existing and new data.
- Providing DNR with fish passage barrier assessments and ranked inventory information to enable funding of barrier removals.
- Receiving information about the presence of fish passage barriers from DNR (via RMAP checklists), and updating the prioritized barrier list accordingly.
- Coordinating with WDFW biologists to ensure HPAs are issued for barrier removals.
- Conducting data quality control and assurance, managing and storing the barrier data, producing the ranked inventory of barriers and any needed maps, information and reports.
- Maintaining and updating the ranked inventory of barriers at least by the beginning of each calendar year.

TIMETABLE

The CQ for the position will be completed by June 26, 2003. Due to the existing budget situation, the position will be filled internally as part of the RIF process on July 10, 2003. Thus, the general work plan elements and specific duties will begin on July 10, 2003.

LEGISLATIVE REPORTS

DNR is required to report to the Legislature on the extent of checklist RMAP implementation in 2008 and 2013. WDFW does not have any mandated reporting requirements.

WDFW STAFF CONTACT

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FINAL BILL REPORT 2SHB 1095

C 311 L 03

Synopsis as Enacted

Brief Description: Limiting the impact on small forest landowners caused by forest road maintenance and abandonment requirements.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Rockefeller, Sump, Linville, Orcutt, Schoesler, Pearson, Holmquist, Haigh and Kristiansen; by request of Commissioner of Public Lands).

House Committee on Agriculture & Natural Resources
House Committee on Appropriations
Senate Committee on Natural Resources, Energy & Water
Senate Committee on Ways & Means

Background:

History of the Forests and Fish Law

The Forest and Fish Report was presented to the Forest Practices Board (Board) and the Governor's Salmon Recovery Office on February 22, 1999. The report represented the recommendations of the authors for the development and implementation of rules, statutes, and programs designed to improve and protect riparian habitat on non-federal forest lands in Washington.

In 1999 the Legislature recognized the Forest and Fish Report by passing the Forests and Fish Law. The law strongly encouraged the Board to adopt emergency rules implementing the recommendations of the Forest and Fish Report. These recommendations included the requirement that all forest landowners be required to file a road maintenance and abandonment plan (RMAP).

RMAP Requirements

All forest landowners must submit a RMAP to the Department of Natural Resources (DNR) by December 31, 2005, or concurrent with an application for a forest practice, whichever is sooner. The RMAP must contain ownership maps, a schedule to complete necessary road work within 15 years, standard road maintenance practices, a storm maintenance strategy, and an assessment of risks to public resources.

On each anniversary date of a RMAP's submission, the owner must file with the DNR a detailed description of the work that was accomplished the previous year and the work that is scheduled for the upcoming year. If the landowner decides not to maintain a road, he or she must indicate in the RMAP a schedule for abandoning the road.

If a landowner fails to submit a RMAP, or to comply with the work schedule outlined in the RMAP, the DNR may deny future forest practice applications made by that landowner. In addition, the RMAP requirement is considered a continuing forest land obligation. All such obligations must be disclosed by the seller of forest land to the buyer prior to sale. If the seller fails to disclose these obligations, the seller is responsible for paying the costs incurred by the buyer for compliance with the obligations.

Summary:

Definitions

The term "small forest landowner" is defined consistently with other locations in the Revised Code of Washington. The definition of small forest landowner is generally a person or entity that harvests an average of two million board feet or less each year.

The term "forest road" is generally defined to mean any road or road segment that crosses over forest land. "Forest land" is defined to exclude residential home sites

and agricultural land. "Fish passage barrier" is defined to mean artificial instream structures.

RMAP Reporting Requirements

The Board is instructed to adopt emergency rules by October 31, 2003, for RMAPs that are different from the recommendations of the Forest and Fish Report. Forest landowners that own a total of 80 acres or less of forest land are not required to submit an RMAP for blocks of forest land that are 20 contiguous acres or less in size.

Landowners that do not meet the 20-acre exemption, but still satisfy the definition of a small forest landowner, are only required to file a checklist RMAP and are exempted from the annual reporting requirement. Unlike standard RMAPs, checklist RMAPs do not need to be filed until the landowner files a forest practice application for a final or intermediate harvest, or for a tree salvage. The checklist RMAP must be limited in scope to the current law, and may only apply to forest roads affected by a forest practice application.

Cost-Share Funding

The Small Forest Landowners Office (SFLO) must seek out funding to implement a cost-sharing program to assist small forest landowners with the costs of removing and replacing culverts and other man-made fish blockages.

The SFLO is directed to seek the highest possible proportion of public funding available; however, a small forest landowner is only required to contribute 25 percent of the cost of any fish barrier or culvert removal. In no instance will a small forest landowner be required to contribute more than \$5,000 towards a particular fish barrier. If a small forest landowner is required to remove a culvert that was lawfully installed, the cost-share program will pay for 100 percent of that culvert's removal costs. In addition, the annual amount that a small forest landowner can be required to pay for fish barrier removal is calculated from the amount of timber he or she harvested in the three years leading to the fish barrier removal.

If a small forest landowner is required to pay for a portion of a road maintenance project, that landowner can satisfy his or her share by providing in-kind services. In-kind services can include labor, equipment, and materials.

Limited funds for the cost-share program are directed to be applied in a worst-first manner within a watershed. The DNR is responsible for establishing an order for providing funds that is aimed at first addressing the priority blockages. In establishing this order, the DNR must coordinate with the Department of Fish and Wildlife and salmon recovery lead entities to establish an annually-updated ranked inventory of fish barriers on land owned by small forest landowners. This process first requires that all known data about the locations and impacts of fish blockages

be gathered and synthesized. The funding order may be altered to reflect the addition of new information.

Forest Practices Application Approvals

Small forest landowners will not have a forest practices application denied solely on the grounds that fish blockages have not been removed if the landowner agrees to remove the fish blockages when cost-share funding is available. The participating landowner will be able to conduct all otherwise permissible forest practices until the cost-share program provides funding for the removal of blockages on his or her land.

Continuing Obligations

The checklist RMAP requirement is exempted from the continuing forest land obligations provision of the Forests and Fish Law. The seller of forest land is not required to notify the buyer in writing of the existence of the checklist RMAP requirement. The checklist RMAP requirement is also removed from the express requirement that the seller pay for any continuing obligations that were not disclosed to the buyer.

Votes on Final Passage:

House	78	20	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: May 14, 2003

Roll Calls on a Bill: 1095 (2003-04)

Brief Description: Limiting the impact on small forest landowners caused by forest road maintenance and abandonment requirements.

2003 Regular Session

Chamber: HOUSE
Bill No.: 2SHB 1095
Description: FINAL PASSAGE
Item No.: 10
Transcript No.: 65
Date: 03-18-2003

Yeas: 78 Nays: 20 Absent: 00 Excused: 00

Voting yea: Representatives Alexander, Armstrong, Berkey, Blake, Boldt, Buck, Cairnes, Carrell, Chase, Clibborn, Cody, Condotta, Conway, Cooper, Crouse, Darneille, DeBolt, Dickerson, Dunshee, Edwards, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kirby, Kristiansen, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Priest, Quall, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Shabro, Simpson, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representatives Ahern, Anderson, Bailey, Benson, Bush, Campbell, Chandler, Clements, Cox, Delvin, Hatfield, Hinkle, Holmquist, Kessler, Mastin, Newhouse, Pflug, Roach, Sehlin, Skinner

2003 Regular Session

Chamber: SENATE
Bill No.: 2SHB 1095
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE SENATE
Item No.: 21
Transcript No.: 87
Date: 04-09-2003

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

2003 Regular Session

Chamber: HOUSE
Bill No.: 2SHB 1095
Description: FP AS AMD BY THE SENATE
Item No.: 7
Transcript No.: 99
Date: 04-21-2003

Yeas: 96 Nays: 00 Absent: 00 Excused: 02

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Campbell, Mielke

SALE OF COMMERCIAL FISH

Substitute House Bill 1127

BACKGROUND

In 2001 the Legislature created the Direct Retail Endorsement as an optional add-on to a commercial salmon or crab license. Holders of a Direct Retail Endorsement are permitted to sell their salmon or crab catch directly to the retail market without first obtaining a wholesale dealer's license. Fishers opting for the endorsement are required to abide by all harvest requirements established by the Washington Department of Fish and Wildlife (WDFW) and must land their catch in the round.

The holders of Direct Retail Endorsements are not required to obtain permits or licenses from each county in which they sell their catch. However, prior to being issued a Direct Retail Endorsement, the fisher must provide to WDFW a signed letter from a county health department. The letter must indicate that the fisher has fulfilled all of the requirements related to that county's health rules and the statewide standards for food service operations. Before any sales may occur in a county that did not issue the required letter, the fisher must provide 48-hours notice and allow that county or a Department employee to inspect the sales operations.

Most commercially caught fish are subject to the Enhanced Food Fish Excise Tax. This tax is paid by the fisher and is calculated as a percentage

of the value of the fish at the point of landing.

Subsequent to the passage of the original legislation, fishing industry representatives petitioned certain legislators and asked that the bill statute be amended to allow for additional qualified species and to expand the retail outlets where fish could be sold using this endorsement. The changes contained in Substitute House Bill 1127 are the result of these efforts.

SUMMARY

The scope of the Direct Retail Endorsement is expanded so that commercial fishers may sell all retail-eligible species directly to the retail market and to restaurants. Retail-eligible species is defined to mean salmon, sturgeon, and crab. Commercially harvested retail-eligible species sold under a Direct Retail Endorsement are not required to be landed in the round unless specified by WDFW.

The Fish and Wildlife Commission (Commission) may adopt rules to require a fisher to notify WDFW up to 18 hours prior to conducting a direct retail sale, unless the cumulative sales from the fisher's vessel that day will total less than \$150. WDFW is authorized to issue a Direct Retail Endorsement at any time, and not just at time of license renewal.

RESOURCE IMPACTS

None expected.

FUNDING IMPACTS

WDFW is using existing staff to administer the direct retail endorsement program.

FUNDING SOURCE

Existing funds will be used for this activity.

COMMITTEES CREATED

None

WORK PLAN

- WDFW staff will begin the process of developing amendments to the current WACs (220-20-080) that pertain to the Direct Retail Sales Endorsement consistent with the changes reflected in SHB 1127.
- In the interim, WDFW staff will prepare emergency regulations that add sturgeon to the list of species that may be sold with a retail endorsement, allows a fisher to obtain a Retail Sales Endorsement

at any time during the calendar year, and expands the retail outlets where an endorsement holder may sell their catch.

TIMETABLE

- 1) WDFW staff will brief Commission on the proposed changes to WAC 220-20-080 no later than the November 2003.
- 2) WDFW staff will submit to the Commission and recommend for final adoption permanent rules implementing Substitute House Bill 1127 at the December 2003 meeting.
- 3) WDFW staff will prepare an emergency regulation for the Director's consideration that implements those portions of Substitute House Bill 1127 as indicated in the work plan no later than July 31, 2003.

LEGISLATIVE REPORTS

None

WDFW STAFF CONTACT

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FINAL BILL REPORT

SHB 1127

PARTIAL VETO

C 387 L 03

Synopsis as Enacted

Brief Description: Concerning the direct retail sale of salmon, crab, and sturgeon.

Sponsors: By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Hatfield, Buck, Cooper, Blake, Pearson and Berkey).

House Committee on Fisheries, Ecology & Parks
Senate Committee on Parks, Fish & Wildlife

Background: In 2002 the Legislature created the Direct Retail Endorsement as an optional add-on to a commercial salmon or crab license. Holders of a Direct Retail Endorsement are permitted to sell their salmon or crab catch directly to the retail market without first obtaining a wholesale dealer's license. Fishers opting for the endorsement are required to abide by all harvest requirements established by the Department of Fish and Wildlife (Department) and must land their catch in the round.

The holders of Direct Retail Endorsements are not required to obtain permits or licenses from each county in which they sell their catch. However, prior to being issued a Direct Retail Endorsement, the fisher must provide to the Department a signed letter from a county health department. The letter must indicate that the fisher has fulfilled all of the requirements related to that county's health rules and the statewide standards for food service operations. Before any sales may occur in a county that did not issue the required letter, the fisher must provide 48-hours notice and allow that county or a Department employee to inspect the sales operations.

Most commercially caught fish is subject to the Enhanced Food Fish Excise Tax. This tax is paid by the fisher and is calculated as a percentage of the value of the fish at the point of landing.

Summary: The scope of the Direct Retail Endorsement is expanded so that commercial fishers may sell all retail-eligible species directly to the retail market and to restaurants. Retail-eligible species is defined to mean salmon, sturgeon, and crab. Commercially harvested retail-eligible species sold under a Direct Retail Endorsement are not required to be landed in the round.

The Fish and Wildlife Commission may require a fisher to notify the Department up to 18 hours prior to conducting a direct retail sale, unless the cumulative sales from the fisher's vessel that day will total less than \$150. The Department is authorized to

issue a Direct Retail Endorsement at any time, and not just at time of license renewal.

The Enhanced Food Fish Excise Tax is directed to be calculated from the comparable sales value of similar fish at the port of landing.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 27, 2003

Partial Veto Summary: The section of the bill vetoed by the Governor altered the calculation of the tax charged on all enhanced food fish from the value of the fish at the point of landing to the comparable sales price for similar species of fish at the point of landing.

Roll Calls on a Bill: 1127 (2003-04)

Brief Description: Concerning the direct retail sale of sturgeon and tuna.
Revised for 1st Substitute: Concerning the direct retail sale of salmon, crab, and sturgeon.

2003 Regular Session

Chamber: HOUSE
Bill No.: SHB 1127
Description: FINAL PASSAGE
Item No.: 7
Transcript No.: 50
Date: 03-03-2003

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representative Edwards

2003 Regular Session

Chamber: SENATE
Bill No.: SHB 1127
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE SENATE
Item No.: 4
Transcript No.: 89
Date: 04-11-2003

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

2003 Regular Session

Chamber: HOUSE
Bill No.: SHB 1127
Description: FP AS AMD BY THE SENATE
Item No.: 10
Transcript No.: 99
Date: 04-21-2003

Yeas: 96 Nays: 00 Absent: 00 Excused: 02

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Campbell, Mielke

WILDLIFE CHEMICAL CAPTURE

House Bill 1144

BACKGROUND

The manufacture, distribution, or dispensing of controlled substances is regulated by the Federal Drug Administration, and the State Board of Pharmacy (Board) and the Department of Health (DOH) under the Uniform Controlled Substances Act (Act). Controlled substances are categorized into five schedules according to their potential for abuse, the extent of currently accepted medical use in the United States, and the potential that use of the drug may lead to physical or psychological dependence. The United States Drug Enforcement Administration (DEA) issued a rule in 1999 placing the substance ketamine into schedule III of the Act.

The DOH registers applicants that dispense controlled substances within the state. The Washington Department of Fish and Wildlife (WDFW) uses controlled substances to capture animals in response to problem and dangerous wildlife complaints and for management and research purposes. The DFW has historically used ketamine for its chemical capture activities.

SUMMARY

The DOH may adopt rules to issue a limited registration for WDFW to operate chemical capture programs using approved controlled substances. The Board, in consultation with WDFW, must

add or remove controlled substances for use in chemical capture programs. WDFW may not permit persons to administer controlled substances without proper knowledge and training. The Board shall suspend or revoke a registration if it determines a person administering controlled substances has not demonstrated adequate knowledge.

RESOURCE IMPACTS

Currently, ketamine is the drug of choice for restraint of wild animals. Ketamine has been reclassified as a controlled substance. This legislation allows Fish and Wildlife officers to continue to use ketamine for wildlife capture. Overall this bill is beneficial to the resource.

FUNDING IMPACTS

None

FUNDING SOURCE

Not applicable

COMMITTEES CREATED

Not applicable.

WORK PLAN

The Board of Pharmacy has asked Briggs Hall (WDFW Wildlife Veterinarian) to identify the drugs

WDFW feels should be added to the list in order to meet agency employees' needs to perform their field duties.

Since ketamine was rescheduled by the DEA to a schedule 111 substance, the Department's use of it has been illegal. WDFW is currently allowed to use xylazine, acepromazine, yohimbine, naltrexone, detomidine, medetomidine, and pentobarbital sodium. Dr. Hall is working with staff to develop this list. Tentatively, he has identified ketamine, telazol, and, for marine mammal work, valium. Any narcotics will still need to be used only under the direction of a licensed individual.

TIMETABLE

Complete by end of September 2003.

LEGISLATIVE REPORTS

None required.

WDFW STAFF CONTACT

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Wildlife Program
(425) 379-2318

FINAL BILL REPORT

HB 1144

C 175 L 03

Synopsis as Enacted

Brief Description: Allowing the department of fish and wildlife to use approved controlled substances for chemical capture programs.

Sponsors: By Representatives Haigh, Sump, Cooper, Armstrong, Pearson, McDermott and Chase; by request of Department of Fish and Wildlife.

House Committee on Fisheries, Ecology & Parks
Senate Committee on Parks, Fish & Wildlife

Background:

The State Board of Pharmacy (Board) and the Department of Health (DOH) regulate the manufacture, distribution, or dispensing of controlled substances under the Uniform Controlled Substances Act (Act). Controlled substances are categorized into five schedules according to their potential for abuse, the extent of currently accepted medical use in the United States, and the potential that use of the drug may lead to physical or psychological dependence. The United States Drug Enforcement Administration issued a rule in 1999 placing the substance ketamine into schedule III of the Act.

The DOH registers applicants that dispense legend drugs or controlled substances within the state. The Washington Department of Fish and Wildlife (WDFW) uses approved legend drugs to capture animals in response to problem and dangerous wildlife complaints and for management and research purposes. The WDFW has historically used the controlled substance ketamine for its chemical capture activities.

Summary:

The DOH may adopt rules to issue a limited registration for the WDFW to operate chemical capture programs using approved controlled substances. The Board, in consultation with the WDFW, must add or remove controlled substances for use in chemical capture programs. The WDFW may not permit persons to administer controlled substances without proper knowledge and training. The Board shall suspend or revoke a registration if it determines a person administering controlled substances has not demonstrated adequate knowledge.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

Roll Calls on a Bill: 1144 (2003-04)

Brief Description: Allowing the Department Of Fish And Wildlife to use approved controlled substances for chemical capture programs.

2003 Regular Session

Chamber: HOUSE
Bill No.: HB 1144
Description: FINAL PASSAGE
Item No.: 6
Transcript No.: 31
Date: 02-12-2003

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representative Sehlin

2003 Regular Session

Chamber: SENATE
Bill No.: HB 1144
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE SENATE
Item No.: 7
Transcript No.: 89
Date: 04-11-2003

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

2003 Regular Session

Chamber: HOUSE
Bill No.: HB 1144
Description: FP AS AMD BY THE SENATE
Item No.: 12
Transcript No.: 99
Date: 04-21-2003

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representative Mielke

WDFW ENFORCEMENT OFFICERS' MEMBERSHIP IN THE LEOFF RETIREMENT SYSTEM PLAN 2

House Bill 1205

BACKGROUND

The Department of Fish and Wildlife (WDFW) was changed from a limited authority law enforcement agency to a general authority law enforcement agency by the 2002 Legislature. This permits the agency to commission officers to enforce all the traffic and criminal laws of the state, much like Washington State Patrol troopers, in addition to the special enforcement powers granted to the WDFW enforcement officers in the state Wildlife Code.

The Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) provides retirement benefits to full-time general authority law enforcement officers and firefighters throughout Washington. To be eligible for LEOFF as a law enforcement officer, an employee must: 1) Work for a governmental entity that meets the definition of a general authority law enforcement agency; 2) be a general authority law enforcement officer; and 3) meet the training or other requirements of his or her job.

While Washington State Patrol troopers and the DFW enforcement officers meet all the requirements of LEOFF membership, they are specifically excluded from LEOFF. Individuals who do not meet all of the criteria or are otherwise excluded from LEOFF membership are generally members of

the Public Employees' Retirement System (PERS).

All employees first employed in PERS-eligible positions since 1977 have been enrolled in PERS Plan 2/3, which allows for an unreduced retirement allowance at age 65. PERS 1, in contrast, permits members to retire at any age after 30 years of service, at age 55 with 25 years of service, and at age 60 with five years of service.

All employees first employed in LEOFF-eligible positions since 1977 have been enrolled in LEOFF Plan 2, which allows for an unreduced retirement allowance at age 53. LEOFF 2 permits early retirement beginning at age 50 for members with 20 years of service with a 3 percent per year reduction to their retirement allowance.

There are about 150 WDFW enforcement officers, and about 84 of them are currently members of PERS 2 and 3. The remaining 55 are members of PERS 1.

SUMMARY

The WDFW enforcement officers who are members of the PERS Plan 2 or 3 are made members of the LEOFF Plan 2 for periods of service rendered after the effective date of the act.

Members with service in PERS 2 and 3 prior to the effective date of the act will have dual membership in PERS 2/3 and LEOFF 2. Members with service in PERS 1 will remain members of PERS 1.

RESOURCE IMPACTS

None

FUNDING IMPACTS

Potential 03-05 Biennium cost increase of \$60,000 - \$70,000 per year based on increased employer contribution rate.

FUNDING SOURCE

To be absorbed within existing General Fund – State and Wildlife Fund – State appropriations.

COMMITTEES CREATED

None

WORK PLAN

- Week of June 9, 2003 - Meet with Department of Retirement Systems (DRS) Project Team to determine implementation requirements.
- Week of June 16, 2003 – Notice sent to affected officers concerning the implementation date of House Bill 1205 and DRS contact information. DRS works with HRISD to implement retirement system transition in State payroll system.
- End of June 2003 – Train all commissioned staff on House Bill 1205 and transfer to LEOFF 2.

- Week of June 30, 2003 – Mail DRS information packets to affected officers, including enrollment and beneficiary forms.

- Week of July 14, 2003 – Ensure return of required forms from officers, and forward to DRS.

- Week of July 21, 2003 – Payroll ensures split calculation of retirement contributions between PERS and LEOFF plans for July final pay period.

TIMETABLE

Implemented July 27, 2003.

LEGISLATIVE REPORTS

None

WDFW STAFF CONTACT

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HOUSE BILL REPORT

HB 1205

As Passed Legislature

Title: An act relating to department of fish and wildlife law enforcement officers' membership in the law enforcement officers' and fire fighters' retirement system plan 2 for periods of future service.

Brief Description: Addressing the department of fish and wildlife law enforcement officers' membership in the law enforcement officers' and fire fighters' retirement system plan 2 for periods of future service.

Sponsors: By Representatives Conway, Delvin, Simpson, Alexander, Cooper and Chase; by request of Joint Committee on Pension Policy.

Brief History:

Committee Activity:

Appropriations: 2/19/03, 3/6/03 [DP].

Floor Activity:

Passed House: 3/13/03, 91-3.

Passed Senate: 4/10/03, 49-0.

Passed Legislature.

Brief Summary of Bill
<ul style="list-style-type: none">Transfers the Department of Fish and Wildlife enforcement officers from the Public Employees' Retirement System Plans 2 and 3 to the Law Enforcement Officers' and Fire Fighters' Plan 2 for periods of future service.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 23 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Buck, Clements, Cody, Conway, Cox, Dunshee, Grant, Hunter, Kenney, Kessler, Linville, McDonald, McIntire, Miloscia, Pflug, Ruderman, Schual-Berke and Talcott.

Minority Report: Do not pass. Signed by 2 members: Representatives Kagi and Sump.

Staff: David Pringle (786-7310).

Background: The Department of Fish and Wildlife (DFW) was changed from a limited authority law enforcement agency to a general authority law enforcement agency by the 2002 Legislature. This permits the agency to commission officers to enforce all the traffic and criminal laws of the state, much like Washington State Patrol troopers, in addition to the special enforcement powers granted to the DFW enforcement officers in the state Wildlife Code.

The Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) provides retirement benefits to full-time general authority law enforcement officers and firefighters throughout Washington. To be eligible for LEOFF as a law enforcement officer, an employee must: 1) Work for a governmental entity that meets the definition of a general authority law enforcement agency; 2) be a general authority law enforcement officer; and 3) meet the training or other requirements of his or her job.

While Washington State Patrol troopers and the DFW enforcement officers meet all the requirements of LEOFF membership, they are specifically excluded from LEOFF. Individuals who do not meet all of the criteria or are otherwise excluded from LEOFF membership are generally members of the Public Employees' Retirement System (PERS).

All employees first employed in PERS-eligible positions since 1977 have been enrolled in PERS Plan 2/3, which allows for an unreduced retirement allowance at age 65. PERS 1, in contrast, permits members to retire at any age after 30 years of service, at age 55 with 25 years of service, and at age 60 with five years of service.

All employees first employed in LEOFF-eligible positions since 1977 have been enrolled in LEOFF Plan 2, which allows for an unreduced retirement allowance at age 53. LEOFF 2 permits early retirement beginning at age 50 for members with 20 years of service with a 3 percent per year reduction to their retirement allowance.

There are about 125 DFW enforcement officers, and about 70 of them are currently members of PERS 2 and 3. The remaining 55 are members of PERS 1.

Summary of Bill: The DFW enforcement officers who are members of the PERS Plan 2 or 3 are made members of the LEOFF Plan 2 for periods of service rendered after the effective date of the act.

Members with service in PERS 2 and 3 prior to the effective date of the act will have dual membership in PERS 2/3 and LEOFF 2. Members with service in PERS 1 will remain members of PERS 1.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: We would like to thank both the Appropriations Committee for hearing and the Joint Committee on Pension Policy for recommending this bill. The bill is purely prospective, and no past service is transferred. The DFW can absorb the additional cost for the 70 members that are in PERS 2 and 3, in part by the positions we have held vacant. This gives us parity with other law enforcement agencies, which will help us recruit employees by transfer. This has been a long process, but Fish and Wildlife enforcement officers now meet the requirements of LEOFF membership. Labor and management are on the same side of the table on this issue.

Testimony Against: None.

Testified: Bruce Bjork, Washington Department of Fish and Wildlife; and Bev Hermanson, Washington Federation of State Employees.

Roll Calls on a Bill: 1205 (2003-04)

Brief Description: Addressing the Department Of Fish And Wildlife law enforcement officers' membership in the law enforcement officers' and fire fighters' retirement system plan 2 for periods of future service.

2003 Regular Session

Chamber: HOUSE
Bill No.: HB 1205
Description: FINAL PASSAGE
Item No.: 11
Transcript No.: 60
Date: 03-13-2003

Yeas: 91 Nays: 03 Absent: 00 Excused: 04

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representatives Kagi, Mielke, Sommers

Excused: Representatives Boldt, Edwards, McMorris, Pflug

2003 Regular Session

Chamber: SENATE
Bill No.: HB 1205
Description: 3RD READING & FINAL PASSAGE
Item No.: 13
Transcript No.: 88
Date: 04-10-2003

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

TEMPORARY FISHING LICENSES

House Bill 1289

BACKGROUND

A personal use saltwater, freshwater, combination, or temporary license is required for all persons 15 years of age or older to fish for or possess fish taken for personal use from state or offshore waters. A temporary fishing license costs \$6 and is valid for two consecutive days. Temporary fishing licenses are not valid on game fish species during the first eight days of the lowland lake fishing season.

SUMMARY

Active duty military personnel serving in any branch of the United States Armed Forces are exempt from the provision that prohibits the use of a temporary fishing license for game fish species during the first eight days of the lowland lake fishing season.

RESOURCE IMPACTS

Current Department of Fish and Wildlife (WDFW) Division staff will provide technical (business rules for automated license application) support and communications necessary with authorized WDFW Dealers.

FUNDING IMPACTS

None

FUNDING SOURCE

None

COMMITTEES CREATED

None required.

WORK PLAN

- Developed and implemented a communication plan for authorized WDFW networked dealers.
- Developed and implemented the required business rules for the automated licensing system.

TIMETABLE

Emergency clause in effect. House Bill 1289 was implemented April 20, 2003. No Permanent rule required. Legislation became law with Governor's signature.

LEGISLATIVE REPORTS

None

WDFW STAFF CONTACT

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FINAL BILL REPORT

HB 1289

C 181 L 03

Synopsis as Enacted

Brief Description: Concerning temporary fishing licenses.

Sponsors: By Representatives Hinkle, Grant, Sump, Blake, Bush, Hatfield, Newhouse, Hunt, Buck, Mielke and McDonald.

House Committee on Fisheries, Ecology & Parks
Senate Committee on Parks, Fish & Wildlife

Background:

A personal use saltwater, freshwater, combination, or temporary license is required for all persons 15 years of age or older to fish for or possess fish taken for personal use from state or offshore waters. A temporary fishing license costs \$6 and is valid for two consecutive days. Temporary fishing licenses are not valid on game fish species during the first eight days of the lowland lake fishing season.

Summary:

Active duty military personnel serving in any branch of the United States Armed Forces are exempt from the provision that prohibits the use of a temporary fishing license for game fish species during the first eight days of the lowland lake fishing season.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: May 9, 2003

Roll Calls on a Bill: 1289 (2003-04)

Brief Description: Concerning temporary fishing licenses.

2003 Regular Session

Chamber: HOUSE
Bill No.: HB 1289
Description: FINAL PASSAGE
Item No.: 19
Transcript No.: 31
Date: 02-12-2003

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representative Sehlin

2003 Regular Session

Chamber: SENATE
Bill No.: HB 1289
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE SENATE
Item No.: 5
Transcript No.: 89
Date: 04-11-2003

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

2003 Regular Session

Chamber: HOUSE
Bill No.: HB 1289
Description: FP AS AMD BY THE SENATE
Item No.: 14
Transcript No.: 99
Date: 04-21-2003

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representative Mielke

MUNICIPAL WATER SUPPLY—EFFICIENCY REQUIREMENTS

Second Engrossed Second Substitute House Bill 1338

BACKGROUND

Water Rights: A water right has several elements or conditions that identify limitations on the use of water under the right. One is its priority. Other elements of the water right include: the amount of water that may be withdrawn from a particular water source under the right, the time of year and point from which the water may be withdrawn, the type of water use authorized under the right (such as an agricultural or municipal use), and the place that the water may be used.

In the past, many water right certificates were issued by the State for municipal use once the main withdrawal and distribution works had been constructed for using the water, but before all of the water was actually put to use. Under this "pumps and pipes" philosophy, a municipality could develop its actual use over time, without affecting its certificated water right. In a recent case involving the water right of a private developer, the State's Supreme Court stated that a final water right certificate may not be issued for the developer's right for a quantity of water that has not actually been put to beneficial use. The Court stated that it declined to address issues concerning municipal water suppliers in the context of the case. However, in a draft policy that the Department of Ecology (DOE) circulated and subsequently withdrew, DOE stated its conclusion that the holdings of the

Court in the case apply to all water rights, including municipal water rights.

Transfers: Certain elements or conditions of a water right may be modified with the approval of DOE either directly or through its review of the decision of a water conservancy board. These modifications are referred to in the water codes as transfers, changes, and amendments. They are referred to here collectively as "transfers." Where a county or counties have created a water conservancy board, the board may process applications for transfers and may act on the applications. A board's decision regarding an application is subject to approval by DOE. Approving a transfer does not affect the priority date of the right. The transfer cannot be approved if it would impair other existing water rights, whether junior or senior.

Watershed Planning: The Water Resources Act (Act) directs DOE to develop a comprehensive state water resources program for making decisions on future water resource allocation and use. The Act permits DOE to develop the program in segments. Under the Act, DOE has divided the state into 62 water resource inventory areas (WRIAs). The watershed planning law enacted in 1998 establishes a process for the development of watershed plans under a locally initiated planning process. Such watershed planning may be initiated for a single WRIA or for a multi-WRIA area.

Water System Plans: The State Board of Health is directed by state law to adopt rules regarding public water supply systems. Under these rules, certain public water systems are required to submit water system plans or small water system management programs to the Department of Health (DOH) for review and approval. Other law requires the development of coordinated water system plans for critical water supply areas.

SUMMARY

Water Rights for Municipal Supplies: A water right represented by a water right certificate issued in the past for municipal water supply purposes once works for diverting or withdrawing and distributing water were constructed, rather than after the water had been placed to actual beneficial use, is declared to be in good standing. However, from now on, DOE must issue a water right certificate for a new water right only for the perfected portion of the right as demonstrated through the actual beneficial use of water. DOE must not revoke or diminish any water right certificate held for municipal water supply purposes unless the certificate was issued with ministerial errors or through misrepresentation, and then only to the extent of the errors or misrepresentation. This prohibition does not apply to DOE's fulfilling its responsibilities to issue certificates at the conclusion of a general adjudication proceeding or following the change, transfer, or amendment of a water right.

A water right that is held for "municipal water supply purposes" is defined for the water code. It is a beneficial use of

water: for residential purposes through 15 or more residential service connections or for a nonresidential population that is, on average, at least 25 people for at least 60 days a year; for governmental or governmental proprietary purposes by certain units of local government; or indirectly for either of these purposes through the delivery of treated or raw water to a public water system. If an entity's use of water satisfies any of these criteria, its other beneficial uses of water generally associated with the use of water within a municipality are also uses for municipal water supply purposes. When requested by a municipal water supplier or when processing a change or amendment to a right, DOE must amend the water right documents and related records to ensure that municipal supply purpose rights are correctly identified.

The use of water that has been diverted or withdrawn for municipal water supply purposes may also include uses that: benefit fish and wildlife, water quality, or other instream resources or related habitat; or are needed to implement environmental obligations called for by an approved watershed plan, by a federal hydropower license, by a habitat conservation plan prepared in response to a listing of a species as being threatened or endangered under the federal Endangered Species Act, or by a comprehensive irrigation district management plan.

Hook Ups; Population Served; Place of Use: Information in an application or subsequent water right document for a water right for municipal water supplies regarding the number of hookups or the population to be served under the right does not limit the exercise of the right

regarding the hookups or population if: the municipal supplier has a water system plan approved by DOH or has the approval of DOH to serve a specified number of service connections; and water service to the hookups or population served is consistent with the plan or DOH approval.

The effect of DOH's approval of a planning or engineering document that describes a municipal water supplier's service area, or the local legislative authority's approval of service area boundaries under a coordinated water system plan, is that any part of the service area that had been outside of the place of use for the water right involved becomes part of the water right's place of use. This applies if the supplier is in compliance with the terms of its water system plan or small water system management program, including those regarding water conservation, and adding the area to the place of use under the right is not inconsistent with the applicable comprehensive plans, land use plans or development regulations of cities, towns, or counties or with an approved watershed plan for the area.

Conservation Requirements: DOH must develop conservation planning requirements which ensure that municipal water suppliers: 1) implement programs to integrate conservation with water system operation and management; and 2) identify how to fund and implement conservation activities. It must review its current conservation planning guidelines and include those elements that are appropriate for rules. These requirements apply to all municipal

water suppliers; they must be tailored to be appropriate to system size, forecasted system demand, and system supply characteristics. Conservation planning requirements must include the: selection of cost-effective measures to achieve a system's water conservation objectives; evaluation of the feasibility of adopting and implementing water delivery rate structures that encourage water conservation; evaluation of the system's water distribution system leakage and an identification of any steps necessary for achieving DOH's leakage standards; collection and reporting of water consumption, source production, and water purchase data and the frequency for reporting such information; and establishment of minimum requirements for water demand forecast methodologies.

DOH must also develop water distribution system leakage standards. It must institute a graduated system of requirements based on levels of water system leakage, but must not require less than 10 percent leakage for the total system's supply. DOH must establish minimum requirements for water conservation performance reporting which must include: the adoption in a public forum and achievement of water conservation goals by suppliers; the adoption of implementation schedules; a public reporting system for regular reviews of conservation performance against adopted goals; and requirements for modifying plans if conservation goals are not being met. If a municipal water supplier determines that further reductions in consumption are not reasonably achievable, it must identify how current consumption levels will be maintained. DOH must adopt

implementing rules by December 31, 2005, and must establish a compliance process that incorporates a graduated approach employing the full range of compliance mechanisms.

DOH must establish an advisory committee to assist it in developing rules for water use efficiency, including conservation planning, distribution leakage standards, and conservation reporting requirements. The agency must provide technical assistance upon request to municipal water suppliers and local governments regarding water conservation, which may include development of best management practices for water conservation programs, landscape ordinances, rate structures for public water systems, and public education programs regarding water conservation.

Before DOH's new conservation rules take effect, a municipal supplier must continue to meet DOH's existing conservation requirements and must continue to implement its current conservation programs.

A municipal supplier with 1,000 or more service connections must, in preparing its regular water system plan updates, describe its conservation measures, the improvements in efficiency resulting from the conservation measures in the last six years, and projected effects of conservation on delaying its use of inchoate water rights before it may divert or withdraw additional inchoate (as yet unused) water. DOE must take this requirement into consideration when it establishes or extends a construction schedule under a water right permit. The time-lines and interim milestones in a detailed watershed implementation

plan (required by Second Engrossed Second Substitute House Bill 1336) must address the planned future use of existing water rights for municipal water supply purposes that are inchoate. In doing so, it must address how these rights will be used to meet the projected future needs identified in the watershed plan and how the use of these rights will be addressed when implementing instream flow strategies identified in the watershed plan.

DOE must prioritize the use of its funds and resources related to streamflow restoration in watersheds where the use of inchoate water rights may have a larger effect on stream flows and other water uses.

Funding: DOH is authorized to charge municipal suppliers an annual fee of 25 cents per residential connection or its equivalent until June 30, 2007, to provide funding for conservation activities.

Approving Plans; Duty to Provide Retail Service: In approving the water system plan of public water system, DOH must ensure that water service under the plan for any new industrial, commercial, or residential use is consistent with the requirements of comprehensive plans, land use plans, or development regulations. A municipal water supplier has a duty to provide retail water service within its retail service area if: its service can be available in a timely and reasonable manner; the supplier has sufficient water rights to provide the service; the supplier has sufficient capacity to serve the water in a safe and reliable manner as determined by DOH; and it is consistent with the requirements of any applicable

comprehensive plan, development regulations, or land use plan adopted by a city, town, or county for the service area. For water service by the water utility of a city or town, the service must also be consistent with the utility service extension ordinances of the city or town. DOH must annually compile lists of water system plans to be reviewed in the next year and consult with certain other state agencies to identify watersheds where further coordination between system planning and watershed planning is needed and must develop a work plan to accomplish that coordination.

Wastewater Plans: Certain opportunities for water reclamation and reuse under the reclaimed water laws must be evaluated in the development of water system plans. This requirement does not apply to plans for serving less than 1,000 hookups.

Sewer plans must include an analysis of the impact of water conservation measures on sewer treatment capacity. They must include a description of its coordination with any reclaimed water elements of a regional water supply plan.

Transferring Inchoate Municipal Water Rights: The right to use water under an unperfected surface water right held for municipal water supply purposes may be changed or transferred for any purpose if: (1) the supplier is in compliance with the terms of an approved water system plan or small water system management program, including those regarding water conservation. If the recipient of the water is a water supply system, the receiving system must also be in

compliance with the terms of its approved plan or program; (2) instream flows have been established by rule for the water resource inventory area that is the source of the water for the transfer or change; (3) a comprehensive watershed plan has been approved for the water resource inventory area and a detailed implementation plan (that satisfies the requirements of 2E2SHB 1336) has been completed; and (4) stream flows that satisfy the instream flow requirements, or the milestones for satisfying those instream flows that are identified in the detailed implementation plan for the watershed, are being met.

If these criteria are not satisfied, the unperfected part of the right may nonetheless be changed or transferred if the change or transfer: is subject to stream flow protection or restoration requirements of an approved habitat conservation plan or a federal hydropower license; is subject to instream flow requirements or agreements and the water right from which it is changed or transferred is also subject to such requirements or agreements; or is needed to resolve or alleviate a public health or safety emergency caused by a failing public water supply system. The criteria for such a failing system are listed and do not include inadequate water rights to serve existing or future hookups.

Watershed Agreements: On a pilot project basis, DOE may enter into watershed agreements with a municipal water supplier to meet the objectives of a watershed plan that has been approved or is under development. The pilot project is to be conducted in water resource inventory area number one, with the consent of the governments

that initiated watershed planning for the watershed. The agreements are for not more than 10 years, but may be renewed. They must be originally entered into before July 1, 2008. An agreement must be consistent with: adopted growth management plans developed under the Growth Management Act; approved water supply plans; adopted watershed plans; and the water use efficiency and conservation requirements of DOH or those of an approved watershed plan, whichever are more stringent. An agreement must require the participating water system to meet obligations under an approved watershed plan; must establish performance measures and time lines and annual reporting regarding them; and provide for stream flow monitoring and metering of water use, as needed to ensure compliance. An agreement is appealable to the Pollution Control Hearings Board within 30 days of being approved by DOE. DOE must report to the Legislature regarding the pilot project before the end of 2003 and 2004.

FUNDING IMPACTS

Per fiscal note 03-FN 114, the Washington Department of Fish and Wildlife (WDFW) requested \$45,643 for FY 2004 and \$43,643 for FY 2005 to support 0.5 FTE (Fish and Wildlife Biologist IV) to provide consultation and technical support to DOH for annual municipal water system plans and to DOE for WRIA 1 pilot watershed agreements. WDFW policy support would be subsumed. Funding received was 56% of that requested. Technical support will be scaled to that level.

FUNDING SOURCE

FY 2004 - General fund state, \$25,000
FY 2005 – General fund state, \$25,000

COMMITTEES CREATED

None created that include WDFW.

WORK PLAN

Water system plans consultation: DOH has the lead and shall annually compile a list of water system plans to be reviewed during the coming year for consultation with WDFW, CTED, and WDOE to determine where further coordination is needed and to develop a work plan to effect that coordination. WDFW will respond as required.

Watershed agreements: WDOE has lead and shall consult with WDFW, DOH, affected local governments and municipal suppliers for the development of a pilot watershed water resource management agreement in WRIA 1 to meet the objectives established in a water resource management program under 90.82 RCW. WDFW intends to provide support during negotiation implementation, and oversight components of this process, as required, to assure protection of fish and wildlife resources, including stream flows.

TIMETABLE

Law became effective July 27, 2003.

Water system plans consultation: Annual consultation work plan and timetable to be developed by DOH.

Watershed agreements: DOE has the lead and must report to the Legislature regarding the pilot project by the end of 2003 and 2004.

LEGISLATIVE REPORTS

None required by WDFW.

WDFW STAFF CONTACT

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FINAL BILL REPORT

2E2SHB 1338

C 5 L 03 E1

Synopsis as Enacted

Brief Description: Providing additional certainty for municipal water rights.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Linville, Kirby, Lantz, Rockefeller, Shabro, Jarrett, Grant, Quall, Hunt, Delvin, Wallace, Woods, Benson, Morris and Conway; by request of Governor Locke).

House Committee on Agriculture & Natural Resources
House Committee on Appropriations
Senate Committee on Natural Resources, Energy & Water

Background:

Water Rights: A water right has several elements or conditions that identify limitations on the use of water under the right. One is its priority. Other elements of the water right include: the amount of water that may be withdrawn from a particular water source under the right, the time of year and point from which the water may be withdrawn, the type of water use authorized under the right (such as an agricultural or municipal use), and the place that the water may be used.

In the past, many water right certificates were issued by the State for municipal use once the main withdrawal and distribution works had been constructed for using the water, but before all of the water was actually put to use. Under this "pumps and pipes" philosophy, a municipality could develop its actual use over time, without affecting its certificated water right. In a recent case involving the water right of a private developer, the State's Supreme Court stated that a final water right certificate may not be issued for the developer's right for a quantity of water that has not actually been put to beneficial use. The Court stated that it declined to address issues concerning municipal water suppliers in the context of the case. However, in a draft policy that the Department of Ecology (DOE) circulated and subsequently withdrew, the DOE stated its conclusion that the holdings of the Court in the case apply to all water rights, including municipal water rights.

Transfers: Certain elements or conditions of a water right may be modified with the approval of the DOE either directly or through its review of the decision of a water conservancy board. These modifications are referred to in the water codes as transfers, changes, and amendments. They are referred to here collectively as "transfers." Where a county or counties have created a water conservancy board, the board may process applications for transfers and may act on the applications. A

board's decision regarding an application is subject to approval by the DOE. Approving a transfer does not affect the priority date of the right. The transfer cannot be approved if it would impair other existing water rights, whether junior or senior.

Watershed Planning: The Water Resources Act (Act) directs the DOE to develop a comprehensive state water resources program for making decisions on future water resource allocation and use. The Act permits the DOE to develop the program in segments. Under the Act, the DOE has divided the state into 62 water resource inventory areas (WRIAs). The watershed planning law enacted in 1998 establishes a process for the development of watershed plans under a locally initiated planning process. Such watershed planning may be initiated for a single WRIA or for a multi-WRIA area.

Water System Plans: The State Board of Health is directed by state law to adopt rules regarding public water supply systems. Under these rules, certain public water systems are required to submit water system plans or small water system management programs to the Department of Health (DOH) for review and approval. Other law requires the development of coordinated water system plans for critical water supply areas.

Summary:

Water Rights for Municipal Supplies: A water right represented by a water right certificate issued in the past for municipal water supply purposes once works for diverting or withdrawing and distributing water were constructed, rather than after the water had been placed to actual beneficial use, is declared to be in good standing. However, from now on, the DOE must issue a water right certificate for a new water right only for the perfected portion of the right as demonstrated through the actual beneficial use of water. The DOE must not revoke or diminish any water right certificate held for municipal water supply purposes unless the certificate was issued with ministerial errors or through misrepresentation, and then only to the extent of the errors or misrepresentation. This prohibition does not apply to the DOE's fulfilling its responsibilities to issue certificates at the conclusion of a general adjudication proceeding or following the change, transfer, or amendment of a water right.

A water right that is held for "municipal water supply purposes" is defined for the water code. It is a beneficial use of water: for residential purposes through 15 or more residential service connections or for a nonresidential population that is, on average, at least 25 people for at least 60 days a year; for governmental or governmental proprietary purposes by certain units of local government; or indirectly for either of these purposes through the delivery of treated or raw water to a public water system. If an entity's use of water satisfies any of these criteria, its other beneficial uses of water generally associated with the use of water within a municipality are also uses for municipal water supply purposes. When requested by

a municipal water supplier or when processing a change or amendment to a right, the DOE must amend the water right documents and related records to ensure that municipal supply purpose rights are correctly identified.

The use of water that has been diverted or withdrawn for municipal water supply purposes may also include uses that: benefit fish and wildlife, water quality, or other instream resources or related habitat; or are needed to implement environmental obligations called for by an approved watershed plan, by a federal hydropower license, by a habitat conservation plan prepared in response to a listing of a species as being threatened or endangered under the federal Endangered Species Act, or by a comprehensive irrigation district management plan.

Hook Ups; Population Served; Place of Use: Information in an application or subsequent water right document for a water right for municipal water supplies regarding the number of hookups or the population to be served under the right does not limit the exercise of the right regarding the hookups or population if: the municipal supplier has a water system plan approved by the DOH or has the approval of the DOH to serve a specified number of service connections; and water service to the hookups or population served is consistent with the plan or DOH approval.

The effect of the DOH's approval of a planning or engineering document that describes a municipal water supplier's service area, or the local legislative authority's approval of service area boundaries under a coordinated water system plan, is that any part of the service area that had been outside of the place of use for the water right involved becomes part of the water right's place of use. This applies if the supplier is in compliance with the terms of its water system plan or small water system management program, including those regarding water conservation, and adding the area to the place of use under the right is not inconsistent with the applicable comprehensive plans, land use plans or development regulations of cities, towns, or counties or with an approved watershed plan for the area.

Conservation Requirements: The DOH must develop conservation planning requirements which ensure that municipal water suppliers: implement programs to integrate conservation with water system operation and management; and identify how to fund and implement conservation activities. It must review its current conservation planning guidelines and include those elements that are appropriate for rules. These requirements apply to all municipal water suppliers; they must be tailored to be appropriate to system size, forecasted system demand, and system supply characteristics. Conservation planning requirements must include the: selection of cost-effective measures to achieve a system's water conservation objectives; evaluation of the feasibility of adopting and implementing water delivery rate structures that encourage water conservation; evaluation of the system's water distribution system leakage and an identification of any steps necessary for achieving DOH's leakage standards; collection and reporting of water consumption, source production, and water purchase data and the frequency for reporting such

information; and establishment of minimum requirements for water demand forecast methodologies.

The DOH must also develop water distribution system leakage standards. It must institute a graduated system of requirements based on levels of water system leakage, but must not require less than 10 percent leakage for the total system's supply. The DOH must establish minimum requirements for water conservation performance reporting which must include: the adoption in a public forum and achievement of water conservation goals by suppliers; the adoption of implementation schedules; a public reporting system for regular reviews of conservation performance against adopted goals; and requirements for modifying plans if conservation goals are not being met. If a municipal water supplier determines that further reductions in consumption are not reasonably achievable, it must identify how current consumption levels will be maintained. The DOH must adopt implementing rules by December 31, 2005, and must establish a compliance process that incorporates a graduated approach employing the full range of compliance mechanisms.

The DOH must establish an advisory committee to assist it in developing rules for water use efficiency, including conservation planning, distribution leakage standards, and conservation reporting requirements. The agency must provide technical assistance upon request to municipal water suppliers and local governments regarding water conservation, which may include development of best management practices for water conservation programs, landscape ordinances, rate structures for public water systems, and public education programs regarding water conservation.

Before DOH's new conservation rules take effect, a municipal supplier must continue to meet DOH's existing conservation requirements and must continue to implement its current conservation programs.

A municipal supplier with 1,000 or more service connections must, in preparing its regular water system plan updates, describe its conservation measures, the improvements in efficiency resulting from the conservation measures in the last six years, and projected effects of conservation on delaying its use of inchoate water rights before it may divert or withdraw additional inchoate (as yet unused) water. This requirement must be taken into consideration by DOE when it establishes or extends a construction schedule under a water right permit. The time-lines and interim milestones in a detailed watershed implementation plan (required by Second Engrossed Second Substitute House Bill 1336) must address the planned future use of existing water rights for municipal water supply purposes that are inchoate. In doing so, it must address how these rights will be used to meet the projected future needs identified in the watershed plan and how the use of these rights will be addressed when implementing instream flow strategies identified in the watershed plan.

The DOE must prioritize the use of its funds and resources related to streamflow restoration in watersheds where the use of inchoate water rights may have a larger effect on stream flows and other water uses.

Funding: The DOH is authorized to charge municipal suppliers an annual fee of 25 cents per residential connection or its equivalent until June 30, 2007, to provide funding for conservation activities.

Approving Plans; Duty to Provide Retail Service: In approving the water system plan of public water system, the DOH must ensure that water service under the plan for any new industrial, commercial, or residential use is consistent with the requirements of comprehensive plans, land use plans, or development regulations. A municipal water supplier has a duty to provide retail water service within its retail service area if: its service can be available in a timely and reasonable manner; the supplier has sufficient water rights to provide the service; the supplier has sufficient capacity to serve the water in a safe and reliable manner as determined by the DOH; and it is consistent with the requirements of any applicable comprehensive plan, development regulations, or land use plan adopted by a city, town, or county for the service area. For water service by the water utility of a city or town, the service must also be consistent with the utility service extension ordinances of the city or town. The DOH must annually compile lists of water system plans to be reviewed in the next year and consult with certain other state agencies to identify watersheds where further coordination between system planning and watershed planning is needed and must develop a work plan to accomplish that coordination.

Wastewater Plans: Certain opportunities for water reclamation and reuse under the reclaimed water laws must be evaluated in the development of water system plans. This requirement does not apply to plans for serving less than 1,000 hookups.

Sewer plans must include an analysis of the impact of water conservation measures on sewer treatment capacity. They must include a description of its coordination with any reclaimed water elements of a regional water supply plan.

Transferring Inchoate Municipal Water Rights: The right to use water under an unperfected surface water right held for municipal water supply purposes may be changed or transferred for any purpose if: (1) the supplier is in compliance with the terms of an approved water system plan or small water system management program, including those regarding water conservation. If the recipient of the water is a water supply system, the receiving system must also be in compliance with the terms of its approved plan or program; (2) instream flows have been established by rule for the water resource inventory area that is the source of the water for the transfer or change; (3) a comprehensive watershed plan has been approved for the water resource inventory area and a detailed implementation plan (that satisfies the requirements of 2E2SHB 1336) has been completed; and (4) stream flows that satisfy the instream flow requirements, or the milestones for satisfying those

instream flows that are identified in the detailed implementation plan for the watershed, are being met.

If these criteria are not satisfied, the unperfected part of the right may nonetheless be changed or transferred if the change or transfer: is subject to stream flow protection or restoration requirements of an approved habitat conservation plan or a federal hydropower license; is subject to instream flow requirements or agreements and the water right from which it is changed or transferred is also subject to such requirements or agreements; or is needed to resolve or alleviate a public health or safety emergency caused by a failing public water supply system. The criteria for such a failing system are listed and do not include inadequate water rights to serve existing or future hookups.

Watershed Agreements: On a pilot project basis, the DOE may enter into watershed agreements with a municipal water supplier to meet the objectives of a watershed plan that has been approved or is under development. The pilot project is to be conducted in water resource inventory area number one, with the consent of the governments that initiated watershed planning for the watershed. The agreements are for not more than 10 years, but may be renewed. They must be originally entered into before July 1, 2008. An agreement must be consistent with: adopted growth management plans developed under the Growth Management Act; approved water supply plans; adopted watershed plans; and the water use efficiency and conservation requirements of the DOH or those of an approved watershed plan, whichever are more stringent. An agreement must require the participating water system to meet obligations under an approved watershed plan; must establish performance measures and time lines and annual reporting regarding them; and provide for stream flow monitoring and metering of water use, as needed to ensure compliance. An agreement is appealable to the Pollution Control Hearings Board within 30 days of being approved by the DOE. The DOE must report to the Legislature regarding the pilot project before the end of 2003 and 2004.

Votes on Final Passage:

House	57	40
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First Special Session

House	83	14
Senate	33	11

Effective: September 9, 2003

Roll Calls on a Bill: 1338 (2003-04)

Brief Description: Providing additional certainty for municipal water rights.

2003 Regular Session

Chamber: HOUSE
Bill No.: 2E2SHB 1338
Description: 279 CHANDLER PG 5 LN 34
Item No.: 29
Transcript No.: 65
Date: 03-18-2003

Yeas: 47 Nays: 50 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Delvin, Ericksen, Hatfield, Hinkle, Holmquist, Jarrett, Kristiansen, Mastin, McDonald, McMahan, McMorris, Mielke, Newhouse, Nixon, Orcutt, Pearson, Pflug, Priest, Roach, Schindler, Schoesler, Sehlin, Shabro, Skinner, Sump, Talcott, Tom, Woods

Voting nay: Representatives Berkey, Chase, Clibborn, Cody, Conway, Cooper, Darneille, Dickerson, Dunshee, Eickmeyer, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Pettigrew, Quall, Rockefeller, Romero, Ruderman, Santos, Schual-Berke, Simpson, Sommers, Sullivan, Upthegrove, Voloria, Wallace, Wood, and Mr. Speaker

Excused: Representative Edwards

2003 Regular Session

Chamber: HOUSE
Bill No.: 2E2SHB 1338
Description: 269 CHANDLER PG 7 LN 22
Item No.: 30
Transcript No.: 65
Date: 03-18-2003

Yeas: 47 Nays: 50 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Delvin, Ericksen, Hatfield, Hinkle, Holmquist, Jarrett, Kristiansen, Mastin, McDonald, McMahan, McMorris, Mielke, Newhouse, Nixon, Orcutt, Pearson, Pflug, Priest, Roach, Schindler, Schoesler, Sehlin, Shabro, Skinner, Sump, Talcott, Tom, Woods

Voting nay: Representatives Berkey, Chase, Clibborn, Cody, Conway, Cooper, Darneille, Dickerson, Dunshee, Eickmeyer, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Pettigrew, Quall, Rockefeller, Romero, Ruderman, Santos, Schual-Berke, Simpson, Sommers, Sullivan, Upthegrove, Veloria, Wallace, Wood, and Mr. Speaker

Excused: Representative Edwards

2003 Regular Session

Chamber: HOUSE
Bill No.: 2E2SHB 1338
Description: 270 CHANDLER PG 12 LN 26
Item No.: 31
Transcript No.: 65
Date: 03-18-2003

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representative Edwards

2003 Regular Session

Chamber: HOUSE
Bill No.: 2E2SHB 1338
Description: FINAL PASSAGE
Item No.: 32
Transcript No.: 65
Date: 03-18-2003

Yeas: 57 Nays: 40 Absent: 00 Excused: 01

Voting yea: Representatives Berkey, Cairnes, Chase, Clibborn, Cody, Conway, Cooper, Darneille, Dickerson, Dunshee, Eickmeyer, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kirby, Kristiansen, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Pearson, Pettigrew, Priest, Quall, Rockefeller, Romero, Ruderman, Santos, Shabro, Simpson, Sommers, Sullivan, Tom, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Campbell, Carrell, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Delvin, Ericksen, Hatfield, Hinkle, Holmquist, Kessler, Mastin, McMahan, McMorris, Mielke, Newhouse, Orcutt, Pflug, Roach, Schindler, Schoesler, Schual-Berke, Sehlin, Skinner, Sump, Talcott, Upthegrove

Excused: Representative Edwards

2003 1st Special Session

Chamber: HOUSE
Bill No.: 2E2SHB 1338
Description: FINAL PASSAGE
Item No.: 7
Transcript No.: 25
Date: 06-05-2003

Yeas: 83 Nays: 14 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell,

Chandler, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Delvin, Dunshee, Edwards, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morris, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Rockefeller, Ruderman, Santos, Schindler, Schoesler, Sehlin, Shabro, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Veloria, Woods, and Mr. Speaker

Voting nay: Representatives Chase, Cooper, Dickerson, Hudgins, Hunt, McCoy, Morrell, Murray, Romero, Schual-Berke, Simpson, Upthegrove, Wallace, Wood

Excused: Representative Roach

2003 1st Special Session

Chamber: SENATE

Bill No.: 2E2SHB 1338

Description: 486 FRASER PG 19 LN 32

Item No.: 12

Transcript No.: 30

Date: 06-10-2003

Yeas: 19 Nays: 25 Absent: 00 Excused: 05

Voting yea: Senators Brown, Doumit, Eide, Fairley, Franklin, Fraser, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Reardon, Regala, Sheldon, B., Spanel, Thibaudeau

Voting nay: Senators Benton, Brandland, Carlson, Esser, Finkbeiner, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Johnson, Morton, Mulliken, Oke, Parlette, Rasmussen, Roach, Rossi, Schmidt, Sheahan, Sheldon, T., Stevens, Swecker, Winsley

Excused: Senators Deccio, McCaslin, Shin, West, Zarelli

2003 1st Special Session

Chamber: SENATE

Bill No.: 2E2SHB 1338

Description: 3RD READING & FINAL PASSAGE

Item No.: 13

Transcript No.: 30

Date: 06-10-2003

Yeas: 33 Nays: 11 Absent: 00 Excused: 05

Voting yea: Senators Benton, Brandland, Carlson, Doumit, Eide, Esser, Finkbeiner, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Kohl-Welles, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Stevens, Swecker, Winsley

Voting nay: Senators Brown, Fairley, Franklin, Fraser, Keiser, Kline, McAuliffe, Reardon, Regala, Spanel, Thibaudeau

Excused: Senators Deccio, McCaslin, Shin, West, Zarelli

DRAINAGE INFRASTRUCTURE

Engrossed Second Substitute House Bill 1418

BACKGROUND

The Growth Management Act (GMA) requires counties and cities meeting certain population and growth criteria to plan under its major requirements. All counties and cities must satisfy certain GMA requirements, including identification and protection of critical areas and designation of natural resource lands of long-term commercial significance. "Natural resource lands" for purposes of the GMA includes agricultural, forest, and mineral resource lands.

The hydraulics code requires any obstruction across or in a stream to be provided with a durable and effective fishway approved by the Director of the Washington Department of Fish and Wildlife (WDFW). A failure to provide, maintain, or operate such a fishway is a gross misdemeanor. After certain notice, the Director may remove an obstruction at the owner's expense or destroy it as a public nuisance.

If a person or agency wishes to construct any form of hydraulic project or perform other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, the person must secure a hydraulic project approval (HPA) from WDFW regarding the adequacy of the means proposed for the protection of fish life. Violation of this

requirement is a gross misdemeanor or WDFW may levy a civil penalty.

Two recent HPA decisions involved installation of self-regulating tide gates (SRTs). Skagit County Dike District No. 22 applied for a HPA to replace an existing four-foot pipe and tide gate on Dry Slough. The HPA issued by WDFW required the replacement culvert to be fitted with a SRT. The HPA conditions have been appealed to the Hydraulic Appeals Board. The other decision involved Skagit County Public Works Department's request for a HPA to disable the regulating float system on a SRT installed on Edison Slough in 2000 and operate it as a standard tide gate for 24 months. WDFW denied the request, and the Skagit County Public Works Department requested an informal review of the denial.

SUMMARY

Department of Fish and Wildlife Requirements:

Provisions addressing WDFW's authority related to agricultural drainage systems are added to the hydraulics code (chapter 77.55 RCW). The term "other obstruction" as used in the fish passage requirements does not include tide gates, flood gates, and associated man-made agricultural drainage facilities that were originally installed as part of an agricultural drainage system on or before the effective date of the

legislation. The term also does not apply to the repair, replacement, or improvement of these facilities. In addition, WDFW is prohibited from requiring a fishway on a tide gate, flood gate, or other associated man-made agricultural drainage facilities as a condition of the HPA if the fishway was not originally installed as part of the drainage system before the effective date of these provisions. Further, any condition requiring a SRT to achieve fish passage in an existing HPA may not be enforced.

Salmon Intertidal Habitat Restoration Planning:

The Fish and Wildlife Commission and county legislative authorities for a geographic area in which a limiting factors analysis demonstrates insufficient intertidal salmon habitat may jointly initiate a salmon intertidal habitat restoration planning process. The purpose of this process is to develop a plan addressing intertidal habitat goals in the limiting factors analysis.

The Fish and Wildlife Commission and the geographic area's county legislative authorities must jointly appoint a task force with representatives of the Governor, Fish and Wildlife Commission, agricultural industry, environmental organizations, appropriate diking and drainage district, lead entity for salmon recovery, and of each county in the geographic area.

Representatives of the United States Environmental Protection Agency, Natural Resources Conservation Service, and fishery agencies and tribes with interests in the geographic area

must be invited and encouraged to participate in any such task force.

Provisions are included for operations and governance of a task force and for annual reports to the Fish and Wildlife Commission, county legislative authorities, and the appropriate lead entity for salmon recovery. A planning process and task force must be initiated as soon as practicable in Skagit County.

A task force established pursuant to this authority must: (1) review and analyze the geographic area's limiting factors analysis; (2) initiate and oversee intertidal salmon habitat studies; (3) review and analyze completed assessments; (4) develop and draft an overall plan to address intertidal salmon habitat goals; and (5) identify appropriate demonstration projects and early implementation projects for the geographic area. The plan must incorporate certain elements, including:

- an inventory of existing tide gates with specified information on these gates;
- an assessment of the role of tide gates and intertidal fish habitat addressing numerous issues; and
- a long-term plan for intertidal salmon enhancement to meet the goals of salmon recovery and agricultural lands protection.

The state Conservation Commission must staff any task force created according to these provisions and may contract with universities, private consultants, nonprofit groups, or other entities to assist with plan development. The final intertidal salmon enhancement plan must be completed within two years after task force formation and

funding. An initial salmon intertidal habitat enhancement plan for public lands meeting certain requirements must be developed by the WDFW in conjunction with public land owners and the task force. This initial public lands plan must be submitted to the task force at least six months before the deadline for the final plan.

Definition:

For the purposes of the hydraulics code, "tide gate" is defined as a one-way check valve that prevents the backflow of tidal water.

RESOURCE IMPACTS

Development of the initial salmon intertidal habitat enhancement plan for public lands is the only section of the bill requiring direct action by WDFW. This will require at least one Fish & Wildlife Biologist 4 for 18 months to compile this plan. No funding was specifically provided for these tasks, consequently existing staff will need to be re-assigned to complete this work, at the expense of other agency priorities.

Participation in the task force was directed to the Fish & Wildlife Commission, with task force support by the Conservation Commission. Consequently, any participation by WDFW will likely be by the Habitat Program Assistant or Deputy Assistant Director.

Neither state agencies generically, or WDFW specifically, was included in the list of entities the Conservation Commission was to draw from to conduct the tide gate inventory and assessment work, and final plan

development. Consequently, no participation by WDFW was presumed for this work.

Should WDFW be expected to participate regardless, this would require the re-assignment of existing staff to complete this work, at the expense of other agency priorities.

FUNDING IMPACTS

No funding was provided for the department's task, therefore, existing funds will need to be diverted from other pre-existing work to complete the requirements of this bill.

FUNDING SOURCE

General Fund-State dollars will be needed, as no funding was provided specifically for this bill.

COMMITTEES CREATED

None at this time.

WORK PLAN

To be developed.

TIMETABLE

The initial plan is due six months prior to completion of the final intertidal salmon enhancement plan to be developed by the Conservation Commission. This final plan is due within two years of task force formation and funding securement.

LEGISLATIVE REPORTS

None required for WDFW's task.

WDFW STAFF CONTACT

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FINAL BILL REPORT

E2SHB 1418

PARTIAL VETO

C 391 L 03

Synopsis as Enacted

Brief Description: Exempting drainage infrastructure from certain environmental requirements.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Quall, Schoesler, Blake, Sump, Morris, Grant, Hatfield, Sehlin, Bailey and Linville).

House Committee on Agriculture & Natural Resources
House Committee on Appropriations
Senate Committee on Agriculture
Senate Committee on Ways & Means

Background:

The Growth Management Act (GMA) requires counties and cities meeting certain population and growth criteria to plan under its major requirements. All counties and cities must satisfy certain GMA requirements, including identification and protection of critical areas and designation of natural resource lands of long-term commercial significance. "Natural resource lands" for purposes of the GMA includes agricultural, forest, and mineral resource lands.

The hydraulics code requires any obstruction across or in a stream to have a durable and effective fishway approved by the Director of the Department of Fish and Wildlife (DFW). A failure to provide, maintain, or operate such a fishway is a gross misdemeanor. After certain notice, the Director may remove an obstruction at the owner's expense or destroy it as a public nuisance.

If a person or agency wishes to construct any form of hydraulic project or perform other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, the person must secure a hydraulic project approval (HPA) from the DFW regarding the adequacy of the means proposed for the protection of fish life. The DFW may levy a civil penalty of up to \$100 per day for a violation of this requirement.

Two recent HPA decisions involved installation of self-regulating tide gates (SRTs). Skagit County Dike District No. 22 applied for a HPA to replace an existing four-foot pipe and tide gate on Dry Slough. The HPA issued by the DFW required the replacement culvert to be fitted with a SRT. The HPA conditions have been

appealed to the Hydraulic Appeals Board. The other decision involved Skagit County Public Works Department's request for a HPA to disable the regulating float system on a SRT installed on Edison Slough in 2000 and operate it as a standard tide gate for 24 months. The DFW denied the request, and the Skagit County Public Works Department requested an informal review of the denial.

Summary:

Department of Fish and Wildlife Requirements:

Provisions addressing the Department of Fish and Wildlife's (DFW's) authority related to agricultural drainage systems are added to the hydraulics code. The term "other obstruction" as used in the fish passage requirements does not include tide gates, flood gates, and associated man-made agricultural drainage facilities that were originally installed as part of an agricultural drainage system on or before the effective date of the legislation. The term also does not apply to the repair, replacement, or improvement of these facilities. In addition, the DFW is prohibited from requiring a fishway on a tide gate, flood gate, or other associated man-made agricultural drainage facilities as a condition of hydraulic project approval (HPA) if the fishway was not originally installed as part of the drainage system before the effective date of these provisions. Further, any condition requiring a self-regulating tide gate (SRT) to achieve fish passage in an existing HPA may not be enforced.

Upon request of either an adversely affected owner of land designated as agricultural land of long-term commercial significance according to the Growth Management Act (GMA) or the associated diking and drainage district, the DFW must authorize the removal of the self-regulating function of any SRT installed because of a condition imposed by the DFW in a HPA or during implementation of fish passage requirements. The DFW must make the authorization a priority and pay for the removal within existing resources.

Salmon Intertidal Habitat Restoration Planning:

The Fish and Wildlife Commission and county legislative authorities for a geographic area in which a limiting factors analysis demonstrates insufficient intertidal salmon habitat may jointly initiate a salmon intertidal habitat restoration planning process. The purpose of this process is to develop a plan addressing intertidal habitat goals in the limiting factors analysis. The Fish and Wildlife Commission and the geographic area's county legislative authorities must jointly appoint a task force with representatives of the Governor, Fish and Wildlife Commission, agricultural industry, environmental organizations, appropriate diking and drainage district, lead entity for salmon recovery, and each county in the geographic area. Representatives of the United States Environmental Protection Agency, Natural Resources Conservation Service, and fishery agencies and tribes with interests in the geographic area must be invited and encouraged to participate in any such task force. Provisions are included for operations and governance of a task force and for annual reports to the

Fish and Wildlife Commission, county legislative authorities, and the appropriate lead entity for salmon recovery. A planning process and task force must be initiated as soon as practicable in Skagit County.

A task force established pursuant to this authority must: (1) review and analyze the geographic area's limiting factors analysis; (2) initiate and oversee intertidal salmon habitat studies; (3) review and analyze completed assessments; (4) develop and draft an overall plan to address intertidal salmon habitat goals; and (5) identify appropriate demonstration projects and early implementation projects for the geographic area. The plan must incorporate certain elements, including:

- an inventory of existing tide gates, with specified information on these gates;
- an assessment of the role of tide gates and intertidal fish habitat addressing numerous issues; and
- a long-term plan for intertidal salmon enhancement to meet the goals of salmon recovery and agricultural lands protection.

The state Conservation Commission must staff any task force created according to these provisions and may contract with universities, private consultants, nonprofit groups, or other entities to assist with plan development. The final intertidal salmon enhancement plan must be completed within two years after task force formation and funding. An initial salmon intertidal habitat enhancement plan for public lands meeting certain requirements must be developed by the DFW in conjunction with public land owners and the task force. This initial public lands plan must be submitted to the task force at least six months before the deadline for the final plan.

Definition:

For the purposes of the hydraulics code, "tide gate" is defined as a one-way check valve that prevents the backflow of tidal water.

Votes on Final Passage:

House	97	0	
Senate	44	4	(Senate amended)
House	97	0	(House concurred)

Effective: May 20, 2003

Partial Veto Summary: The Governor vetoed the provision requiring the Department of Fish and Wildlife to authorize and pay for the removal of the self-regulating function of any SRT installed because of a condition imposed by the DFW in a HPA or during implementation of fish passage requirements upon request of either an adversely affected agricultural land owner or the associated diking and drainage district.

Roll Calls on a Bill: 1418 (2003-04)

Brief Description: Exempting drainage infrastructure from certain environmental requirements.
Revised for 1st Substitute: Regarding construction projects in state waters.
Revised for 2nd Substitute: Regarding construction projects in state waters. (REVISED FOR PASSED LEGISLATURE: Exempting drainage infrastructure from certain environmental requirements.)

2003 Regular Session

Chamber: HOUSE
Bill No.: E2SHB 1418
Description: FINAL PASSAGE
Item No.: 31
Transcript No.: 64
Date: 03-17-2003

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representative Edwards

2003 Regular Session

Chamber: SENATE
Bill No.: E2SHB 1418
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE SENATE
Item No.: 26
Transcript No.: 92
Date: 04-14-2003

Yeas: 44 Nays: 04 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brandland, Brown, Carlson, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, West, Winsley, Zarelli
Voting nay: Senators Fairley, Kohl-Welles, Regala, Thibaudeau
Excused: Senator Deccio

2003 Regular Session

Chamber: HOUSE
Bill No.: E2SHB 1418
Description: FP AS AMD BY THE SENATE
Item No.: 28
Transcript No.: 100
Date: 04-22-2003

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representative Clements

GAME DAMAGE TO CROPS

Substitute House Bill 1512

BACKGROUND

The Department of Fish and Wildlife (WDFW) is instructed to work closely with landowners to find non-lethal solutions to problem wildlife. However, if such efforts are not practical, WDFW is authorized to increase the harvest of damage-causing animals during the hunting season. WDFW also has the discretionary authority to conduct special hunts in problem areas as a result of recurring complaints regarding property being damaged by wildlife.

In addition to special hunts, the owner or tenant of real property being damaged by wildlife is authorized to trap or kill problem wildlife that is causing damage to crops. However, that permission does not extend to endangered or threatened species, or to deer and elk. Problem deer and elk may only be killed with a take permit issued by WDFW, unless the situation is an emergency and WDFW has given the landowner verbal permission to harvest the deer or elk. On cattle ranching land, the owner may only declare an emergency if WDFW does not respond within 48 hours of notification. Even if an emergency situation exists, the owners of cattle ranching land may not kill the problem wildlife if they did not make the land available for public hunting during the previous hunting season.

The Fish and Wildlife Commission (Commission) is authorized to conduct

special hunts in areas where game populations exist at a level that damages property or over-utilizes the habitat. The Commission's authority includes the ability to identify the number and sex of animals that are allowed to be taken. The Director of WDFW is required to determine a selection system for the hunters allowed to participate in a special season that ensures a random selection.

SUMMARY

Special Hunts:

The Commission is directed to authorize the issuance of either one or two antlerless permits per hunter for special hunts to be conducted in areas where WDFW, or its designee, has confirmed six incidents of agricultural and horticultural crop damage caused by deer or elk. Complaints must be received from the owner or tenant of real property, or from several owners or tenants in the same locale.

As an alternative to hunting, WDFW must work with affected entities to relocate deer and elk when it is needed to augment populations.

Hunter Selectio:

WDFW is required to maintain a list of persons holding valid wildlife hunting licenses, arranged by county of residence, who are available to hunt

deer or elk causing damage to crops. WDFW must update the list at least annually. When contacting people to help control game damage to crops, WDFW must use the list and must make all reasonable efforts to contact a resident of the county where the activity will occur before contacting a resident of a different county. The names on the list must be randomized in order to provide a fair distribution of the hunting opportunities. Hunters participating in these hunts must report their kills to WDFW, and the information provided must be included in a summary of wildlife harvested that is available to the public.

RESOURCE IMPACTS

Wildlife resource impacts should be minimal as wildlife damage situations usually result from overpopulations or unfavorable distributions of wildlife that cannot otherwise be remedied without the use of harvest as the primary tool.

FUNDING IMPACTS

Minimal funding impacts are expected, assuming that implementation of this legislation is consistent with the current way in which hot-spot hunts are being utilized. There are however data tracking/monitoring costs that will occur due to the need to document six complaints within a specific area. Enforcement Program would be responding/determining deer and elk damage to agricultural and horticultural crops as they do now and this would likely be an extension of the damage claims process. The result would be a hot-spot hunt rather than a damage payment.

FUNDING SOURCE

Minimal Wildlife – State

COMMITTEES CREATED

None

WORK PLAN

Enforcement and Wildlife Program staff will work to coordinate field response and implementation of this bill through the Regional Enforcement Captains. All WDFW testimony and discussion during the session indicated that this legislation was essentially already capable of being implemented, and to a large extent is being implemented through use of the hot-spot hunts. Despite the fact that this legislation modifies RCWs 77.12.150 and 77.36.020 which reference special permit hunts established by the Commission, we shall implement this legislation as a Director authorized hot-spot hunt responding to local damage issues caused by deer and elk. A meeting to discuss implementation in this fashion with Representative Cox shall occur prior to the initiation of hunts and preliminary discussions have already taken place. Amendments to RCW 77.12.240 and rule changes to WAC 232-12-025 should be made for the 2004 session.

TIMETABLE

Operational by December 31, 2003.

LEGISLATIVE REPORTS

None, but immediate contact/meeting with Representative Cox is recommended.

WDFW STAFF CONTACT

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FINAL BILL REPORT

SHB 1512

C 385 L 03

Synopsis as Enacted

Brief Description: Allowing special hunts to reduce crop damage caused by wildlife.

Sponsors: By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Cox, Fromhold, Sump, Schoesler, Hatfield, Ahern, Clements and Armstrong).

House Committee on Fisheries, Ecology & Parks
Senate Committee on Parks, Fish & Wildlife

Background: The Department of Fish and Wildlife (Department) is instructed to work closely with landowners to find non-lethal solutions to problem wildlife. However, if such efforts are not practical, the Department is authorized to increase the harvest of damage-causing animals during the hunting season. The Department also has the discretionary authority to conduct special hunts in problem areas as a result of recurring complaints regarding property being damaged by wildlife.

In addition to special hunts, the owner or tenant of real property being damaged by wildlife is authorized to trap or kill problem wildlife that is causing damage to crops. However, that permission does not extend to endangered or threatened species, or to deer and elk. Problem deer and elk may only be killed with a take permit issued by the Department, unless the situation is an emergency and the Department has given the landowner verbal permission to harvest the deer or elk. On cattle ranching land, the owner may only declare an emergency if the Department does not respond within 48 hours of notification. Even if an emergency situation exists, the owners of cattle ranching land may not kill the problem wildlife if they did not make the land available for public hunting during the previous hunting season.

The Fish and Wildlife Commission (Commission) is authorized to conduct special hunts in areas where game populations exist at a level that damages property or over-utilizes the habitat. The Commission's authority includes the ability to identify the number and sex of animals that are allowed to be taken. The Director of the Department is required to determine a selection system for the hunters allowed to participate in a special season that ensures a random selection.

Summary:

Special Hunts

The Commission is directed to authorize the issuance of either one or two antlerless permits per hunter for special hunts to be conducted in areas where the Department, or its designee, has confirmed six incidents of agricultural and horticultural crop damage caused by deer or elk. Complaints must be received from the owner or tenant of real property, or from several owners or tenants in the same locale.

As an alternative to hunting, the Department must work with affected entities to relocate deer and elk when it is needed to augment populations.

Hunter Selection

The Department is required to maintain a list of persons holding valid wildlife hunting licenses, arranged by county of residence, who are available to hunt deer or elk causing damage to crops. The Department must update the list at least annually. When contacting people to help control game damage to crops, the Department must use the list and must make all reasonable efforts to contact a resident of the county where the activity will occur before contacting a resident of a different county. The names on the list must be randomized in order to provide a fair distribution of the hunting opportunities. Hunters participating in these hunts must report their kills to the Department, and the information provided must be included in a summary of wildlife harvested that is available to the public.

Votes on Final Passage:

House	94	0	
Senate	46	3	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

Roll Calls on a Bill: 1512 (2003-04)

Brief Description: Allowing special hunts to reduce crop damage caused by wildlife.

2003 Regular Session

Chamber: HOUSE
Bill No.: SHB 1512
Description: FINAL PASSAGE
Item No.: 16
Transcript No.: 62
Date: 03-15-2003

Yeas: 94 Nays: 00 Absent: 00 Excused: 04

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker
Excused: Representatives Boldt, Edwards, Mastin, Mielke

2003 Regular Session

Chamber: SENATE
Bill No.: SHB 1512
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE SENATE
Item No.: 9
Transcript No.: 89
Date: 04-11-2003

Yeas: 46 Nays: 03 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide,

Esser, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

Voting nay: Senators Fairley, Kohl-Welles, Prentice

2003 Regular Session

Chamber: HOUSE
Bill No.: SHB 1512
Description: FP AS AMD BY THE SENATE
Item No.: 18
Transcript No.: 99
Date: 04-21-2003

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representative Mielke

COST-REIMBURSEMENT AGREEMENTS BETWEEN STATE AGENCIES AND PERMIT APPLICANTS

House Bill 1526

BACKGROUND

Cost-reimbursement agreements are a mechanism by which an applicant for a state or local government permit or lease can provide funds for the staff necessary to process the required application in a timely manner. Voluntary cost-reimbursement agreements may be negotiated between applicants for both complex and non-complex permits and the Departments of Ecology, Natural Resources, Health, Fish and Wildlife, and local air pollution control authorities. The Department of Natural Resources may also use these agreements for any lease application except aquatic leases. A complex permit is defined as a permit which requires an environmental impact statement.

Under a cost-reimbursement agreement, the applicant pays the reasonable costs incurred by the agency or local pollution control authority for permit coordination, environmental review, application review, technical studies, permit processing, and carrying out the requirements of other relevant laws. The agreement must identify the specific tasks, costs, and schedule for work to be conducted. Funds under a cost-reimbursement agreement are used by the agency to contract with independent consultants to carry out the work covered by the agreement. The funds may also be used to assign current staff to review the consultants'

work and to provide necessary technical assistance when an independent consultant with comparable technical skills is unavailable.

Prior to the passage of HB 1526, no new cost-reimbursement agreement could be negotiated after July 1, 2005. An agency may continue to administer any cost-reimbursement agreement which was entered into before July 1, 2005 until the project is completed.

SUMMARY

The deadline for entering into voluntary cost-reimbursement agreements between applicants for permits and the departments of Ecology, Natural Resources, Health, Fish and Wildlife, and local air pollution control authorities is extended from July 1, 2005 to July 1, 2007.

Provisions that only complex projects requiring an environmental impact statement qualify for cost-reimbursement agreements are repealed. Non-complex projects now may be negotiated for cost reimbursements.

RESOURCE IMPACTS

Washington Department of Fish and Wildlife (WDFW) staff time to set up cost reimbursement agreements for non-complex projects (delayed reimbursement): 1) Negotiate a

contract, 2) set up the contract. Assume one senior biologist (Biologist 4) for 3 days to negotiate and help draft the contract and implement it. Assume one Deputy Contracts Officer for preparation of the contract. Assume 50 percent cost-reimbursement efficiency. Temporary staff reimbursements may reduce the funding back to WDFW since the bill requires that agencies use outside consultants. It is uncertain at this time how many applicants would request to enter into a cost-reimbursement agreement with WDFW. Assuming 10 non-EIS projects per year.

FUNDING IMPACTS

We are assuming only 50 percent cost reimbursement, although up to 100 percent reimbursement is possible. Reimbursement for one Biologist 4 @ \$48,156 (mid-range) and one Deputy Contracts Officer @ \$48,156 (mid-range) is \$96,312 / 228 days or \$422 X 3 days of negotiations and preparation work = \$1,267 (rounded). If WDFW only receives 50 percent reimbursement, it will absorb \$633.50 in funding impacts to set up a contract. Assuming 10-non-EIS projects per year. If WDFW is reimbursed for only 50 percent, the funding impacts may equal \$6,335.00 per year.

FUNDING SOURCE

GF-Private Local (Applicants will enter into a cost-reimbursement with the agency).

COMMITTEES CREATED

None

WORK PLAN

A roster has been prepared by General Administration that lists approved companies according to type of expertise they can provide. As applicants approach WDFW to engage in a cost-reimbursement agreement, WDFW will notify Ecology. WDFW will modify the agreement that Ecology has prepared for other consultant work if, after review, it meets the agency's needs and fulfills the requirements of the legislation. Otherwise, WDFW will create its own template to use that will meet its needs (and Contracts requirements).

A Biologist 4 who has been assigned to oversee the project will meet with the applicant and negotiate the terms of the contract, making sure that all potential costs are discussed. A signed agreement will be obtained and then the contract prepared for signature that establishes timelines, performance measures, and payment expectations.

TIMETABLE

- 1) The roster of consultants will be reviewed and chosen, or if expertise is not available, a staff person will be assigned and the position backfilled.
- 2) The agreement will be signed no later than one month after negotiations have been completed.
- 3) The contract will be written two weeks after the agreement is signed.
- 4) Performance measures will be reviewed every month at a minimum, depending on the size of the project.

LEGISLATIVE REPORTS

None. However, the Department of Ecology has taken the lead to provide an accounting of the success of the bill to the legislature by July 1, 2007.

WDFW STAFF CONTACT

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FINAL BILL REPORT

HB 1526

C 70 L 03

Synopsis as Enacted

Brief Description: Revising provisions relating to cost-reimbursement agreements between state agencies and permit applicants.

Sponsors: By Representatives Linville, Armstrong, Haigh, Morris, Cooper, Mastin, Gombosky, Delvin, Grant, Schoesler, Sullivan, Chandler and Schual-Berke.

House Committee on Fisheries, Ecology & Parks
Senate Committee on Natural Resources, Energy & Water

Background:

Cost-reimbursement agreements allow an applicant for a state or local government permit or lease to provide funds for the staff necessary to process the required application in a timely manner. Voluntary cost-reimbursement agreements may be negotiated between applicants for complex permits and the departments of Ecology, Natural Resources, Health, Fish and Wildlife, and local air pollution control authorities. The Department of Natural Resources may also use these agreements for any lease application except aquatic leases. A complex permit is defined as a permit which requires an environmental impact statement.

Under a cost-reimbursement agreement, the applicant pays the reasonable costs incurred by the agency or local pollution control authority for permit coordination, environmental review, application review, technical studies, permit processing, and compliance with requirements of other relevant laws. The agreement must identify the specific tasks, costs, and schedule for work to be conducted. Funds under a cost-reimbursement agreement are used by the agency to contract with independent consultants to carry out the work covered by the agreement. The funds may also be used to assign current staff to review the consultants' work and to provide necessary technical assistance when an independent consultant with comparable technical skills is unavailable.

No new cost-reimbursement agreement may be negotiated after July 1, 2005. An agency may continue to administer any cost-reimbursement agreement which was entered into before July 1, 2005, until the project is completed.

Summary:

The deadline for entering into voluntary cost-reimbursement agreements between applicants for permits and the departments of Ecology, Natural Resources, Health,

Fish and Wildlife, and local air pollution control authorities is extended from July 1, 2005, to July 1, 2007.

Provisions that only complex projects requiring an environmental impact statement qualify for cost-reimbursement agreements are repealed.

Votes on Final Passage:

House	94	0
Senate	49	0

Effective: July 27, 2003

Roll Calls on a Bill: 1526 (2003-04)

Brief Description: Revising provisions relating to cost-reimbursement agreements between state agencies and permit applicants.

2003 Regular Session

Chamber: HOUSE
Bill No.: HB 1526
Description: FINAL PASSAGE
Item No.: 17
Transcript No.: 62
Date: 03-15-2003

Yeas: 94 Nays: 00 Absent: 00 Excused: 04

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Boldt, Edwards, Mastin, Mielke

2003 Regular Session

Chamber: SENATE
Bill No.: HB 1526
Description: 3RD READING & FINAL PASSAGE
Item No.: 9
Transcript No.: 88
Date: 04-10-2003

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

CATCH RECORD CARDS

Second Substitute House Bill 1725

BACKGROUND

The Department of Fish and Wildlife (WDFW) currently requires recreational fishers to report their harvest activity on catch record cards for salmon, steelhead, sturgeon, halibut, and Dungeness crab. Catch record cards are provided free with the purchase of a license and must be used by recreational fishers to report each fish caught. Catch estimates generated by the catch record card system are used by WDFW to manage fisheries.

The Director of WDFW must establish by rule the conditions and fees for issuing duplicate licenses. Fees for duplicate licenses, permits, tags, and stamps may not exceed the actual cost for issuing the duplicate license.

A personal use saltwater, freshwater, combination, or temporary license is required for all persons 15 years of age or older to fish for or possess fish taken for personal use from state or offshore waters. Temporary fishing licenses are issued either as a license document requiring personal identification or as a stamp. Charter boats may sell temporary fishing license stamps to customers which are valid for two consecutive days.

WDFW manages selective fisheries allowing the harvest of hatchery salmon while protecting depressed stocks of wild salmon. Hatchery fish are marked

by clipping their adipose fin, allowing fishers to differentiate hatchery fish from wild stocks.

SUMMARY

Additional and duplicate catch record cards cost \$10 each. Funds received from the sale of catch record cards must be deposited in the Wildlife Fund. Fees for duplicate catch record cards may exceed the cost of issuing the duplicate card.

Charter boat operators issuing temporary licenses shall affix a charter boat stamp to each catch record card before a person fishes. Catch record cards issued with affixed temporary charter stamps are valid for two consecutive days and are not subject to the \$10 charge.

WDFW shall include provisions for recording marked and unmarked salmon on catch record cards issued after March 31, 2004.

RESOURCE IMPACTS

Division staff will provide technical support to implement the new catch record card fees. Staff will develop and implement a communication plan for the public and WDFW Dealers, business rules for the recreational automated licensing system, and reconciliation time to track and report new revenue.

FUNDING IMPACTS

Staff time will be required to communicate with WDFW Dealers, and the public regarding this new fee.

FUNDING SOURCE

None

COMMITTEES CREATED

None

WORK PLAN

- Develop and implement a communication plan for WDFW networked dealers and the public.
- Develop and implement business rules for selling the catch record cards through the automated licensing system.
- Establish reconciliation and reporting processes for catch record card revenue.

TIMETABLE

The effective date for implementation is April 1, 2004.

LEGISLATIVE REPORTS

None

WDFW STAFF CONTACT

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FINAL BILL REPORT 2SHB 1725

C 318 L 03
Synopsis as Enacted

Brief Description: Concerning catch record cards.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Cooper and Upthegrove).

House Committee on Fisheries, Ecology & Parks
House Committee on Appropriations
Senate Committee on Parks, Fish & Wildlife

Background:

The Washington Department of Fish and Wildlife (WDFW) requires recreational fishers to report their harvest activity on catch record cards for salmon, steelhead, sturgeon, halibut, and Dungeness crab. Catch record cards are provided free with the purchase of a license and must be used by recreational fishers to report each fish caught. Catch estimates generated by the catch record card system are used by the WDFW to manage fisheries.

The Director of the WDFW must establish by rule the conditions and fees for issuing duplicate licenses. Fees for duplicate licenses, permits, tags, and stamps may not exceed the actual cost for issuing the duplicate license.

A personal use saltwater, freshwater, combination, or temporary license is required for all persons 15 years of age or older to fish for or possess fish taken for personal use from state or offshore waters. Temporary fishing licenses are issued either as a license document requiring personal identification or as a stamp. Charter boats may sell temporary fishing license stamps to customers which are valid for two consecutive days.

The WDFW manages selective fisheries allowing the harvest of hatchery salmon while protecting depressed stocks of wild salmon. Hatchery fish are marked by clipping their adipose fin, allowing fishers to differentiate hatchery fish from wild stocks.

Summary:

Additional and duplicate catch record cards cost \$10 each. Funds received from the sale of catch record cards must be deposited in the Wildlife Fund. Fees for duplicate catch record cards may exceed the cost of issuing the duplicate card.

Charter boat operators issuing temporary licenses must affix a charter boat stamp to each catch record card before a person fishes. Catch record cards issued with

affixed temporary charter stamps are valid for two consecutive days and are not subject to the \$10 charge.

The WDFW must include provisions for recording marked and unmarked salmon on catch record cards issued after March 31, 2004.

Votes on Final Passage:

House	91	3	
Senate	49	0	(Senate amended)
House	92	6	(House concurred)

Effective: April 1, 2004

Roll Calls on a Bill: 1725 (2003-04)

Brief Description: Concerning the cost of a catch record card.
Revised for 2nd Substitute: Concerning the cost of a catch record card. (REVISED FOR PASSED LEGISLATURE: Concerning catch record cards.)

2003 Regular Session

Chamber: HOUSE
Bill No.: 2SHB 1725
Description: FINAL PASSAGE
Item No.: 22
Transcript No.: 62
Date: 03-15-2003

Yeas: 91 Nays: 03 Absent: 00 Excused: 04

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representatives Crouse, Ericksen, Kristiansen

Excused: Representatives Boldt, Edwards, Mastin, Mielke

2003 Regular Session

Chamber: SENATE
Bill No.: 2SHB 1725
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE SENATE
Item No.: 2
Transcript No.: 89

Date: 04-11-2003

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

2003 Regular Session

Chamber: HOUSE
Bill No.: 2SHB 1725
Description: FP AS AMD BY THE SENATE
Item No.: 11
Transcript No.: 101
Date: 04-23-2003

Yeas: 92 Nays: 06 Absent: 00 Excused: 00

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Eickmeyer, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representatives Benson, Crouse, Ericksen, Kristiansen, Mastin, Schindler

RECOUPMENT OF STATE EMPLOYEE SALARY AND WAGE OVERPAYMENTS

Substitute House Bill 1738

BACKGROUND

It is unlawful for an employer to withhold or divert any portion of an employee's wages except in three limited circumstances. These circumstances do not include the recovery of overpayments of wages. Consequently, an employer must bring a civil action against an employee to collect such overpayments.

In State v. Adams, 107 Wn.2d 611 (1987), the Department of Transportation sought a declaratory judgment that the state had authority to recoup overpayments of wages by deducting "reasonable amounts" from employee paychecks until the amounts owed were recovered. The Supreme Court held that, in the absence of statutory procedures to protect an employee from an erroneous claim, the state may collect overpayments of wages only by bringing a civil action against the employee. The Supreme Court explained that deducting amounts from employee paychecks without notice and an opportunity to be heard violated employee rights to due process.

SUMMARY

The state, as an employer, is authorized to recover overpayments of wages to an employee either by making deductions from subsequent payments of wages to the employee or by a civil action. In general, deductions

may not exceed 5 percent of the employee's disposable earnings per pay period. However, deductions may be for the full amount still outstanding from payments of wages for a final pay period.

The state may make deductions only in accordance with a specified process for reviewing and recovering overpayments of wages. This process is as follows:

- The state must notify the employee. This notice must include, among other items, the amount of the overpayment and the basis for the claim. This notice may be served upon the employee in the same manner as a summons in a civil action or be mailed to the employee at the last known address by certified mail, return receipt requested.
- Within 20 calendar days after receiving the notice, the employee may request that the state review its finding that an overpayment occurred. If the employee does not request such review, the employee may not further challenge the overpayment, and has no right to further agency review, an adjudicative proceeding, or judicial review.
- Upon receipt of an employee's request for review, the state must review the employee's challenge to the overpayment. The state must

then notify the employee of its decision regarding the employee's challenge. This notice must be mailed to the employee at the last known address by certified mail, return receipt requested.

- The employee may request an adjudicative proceeding governed by the Administrative Procedure Act. This application must include the original notice of overpayment and state the basis for contesting the notice. This application must be served on and received by the state within 28 calendar days of the employee's receipt of the state's decision regarding the employee's challenge. This application must be mailed to the state by certified mail, return receipt requested. If the employee does not request such a proceeding, the amount of the overpayment must be deemed final and the state may recoup the overpayment.
- If the employee requests an adjudicative proceeding, the presiding officer must determine the amount of the overpayment.
- If the employee fails to attend or participate in the adjudicative proceeding, an administrative order declaring the amount claimed in the notice to be assessed against the employee and subject to collection action by the state.

RESOURCE IMPACTS

None

FUNDING IMPACTS

Minimal additional staff time.

FUNDING SOURCE

No funds were provided to implement this legislation. Existing Department of Fish and Wildlife resources will be used.

COMMITTEES CREATED

None

WORK PLAN

Develop and implement a payroll procedure once Office of Financial Management has finalized the Accounting Administrative policy for Substitute House Bill 1738.

TIMETABLE

Implementation date is July 5, 2003.

LEGISLATIVE REPORTS

None

WDFW STAFF CONTACT

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FINAL BILL REPORT

SHB 1738

C 77 L 03

Synopsis as Enacted

Brief Description: Providing for recoupment of state employee salary and wage overpayments.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Haigh and Armstrong; by request of Office of Financial Management).

House Committee on Commerce & Labor
Senate Committee on Commerce & Trade

Background: It is unlawful for an employer to withhold or divert any portion of an employee's wages except in three limited circumstances. These circumstances do not include the recovery of overpayments of wages. Consequently, an employer must bring a civil action against an employee to collect such overpayments.

In State v. Adams, 107 Wn.2d 611 (1987), the Department of Transportation sought a declaratory judgment that the state had authority to recoup overpayments of wages by deducting "reasonable amounts" from employee paychecks until the amounts owed were recovered. The Supreme Court held that, in the absence of statutory procedures to protect an employee from an erroneous claim, the state may collect overpayments of wages only by bringing a civil action against the employee. The Supreme Court explained that deducting amounts from employee paychecks without notice and an opportunity to be heard violated employee rights to due process.

Summary: The state, as an employer, is authorized to recover overpayments of wages to an employee either by making deductions from subsequent payments of wages to the employee or by a civil action. In general, deductions may not exceed 5 percent of the employee's disposable earnings per pay period. However, deductions may be for the full amount still outstanding from payments of wages for a final pay period.

The state may make deductions only in accordance with a specified process for reviewing and recovering overpayments of wages. This process is as follows:

- The state must notify the employee. This notice must include, among other items, the amount of the overpayment and the basis for the claim. This notice may be served upon the employee in the same manner as a summons in a

civil action or be mailed to the employee at the last known address by certified mail, return receipt requested.

- Within 20 calendar days after receiving the notice, the employee may request that the state review its finding that an overpayment occurred. If the employee does not request such review, the employee may not further challenge the overpayment, and has no right to further agency review, an adjudicative proceeding, or judicial review.
- Upon receipt of an employee's request for review, the state must review the employee's challenge to the overpayment. The state must then notify the employee of its decision regarding the employee's challenge. This notice must be mailed to the employee at the last known address by certified mail, return receipt requested.
- The employee may request an adjudicative proceeding governed by the Administrative Procedure Act. This application must include the original notice of overpayment and state the basis for contesting the notice. This application must be served on and received by the state within 28 calendar days of the employee's receipt of the state's decision regarding the employee's challenge. This application must be mailed to the state by certified mail, return receipt requested. If the employee does not request such a proceeding, the amount of the overpayment must be deemed final and the state may recoup the overpayment.
- If the employee requests an adjudicative proceeding, the presiding officer must determine the amount of the overpayment.
- If the employee fails to attend or participate in the adjudicative proceeding, an administrative order declaring the amount claimed in the notice to be assessed against the employee and subject to collection action by the state.

Votes on Final Passage:

House	93	0
Senate	47	0

Effective: July 27, 2003

Roll Calls on a Bill: 1738 (2003-04)

Brief Description: Providing for recoupment of state employee salary and wage overpayments.

2003 Regular Session

Chamber: HOUSE
Bill No.: SHB 1738
Description: FINAL PASSAGE
Item No.: 46
Transcript No.: 58
Date: 03-11-2003

Yeas: 93 Nays: 00 Absent: 00 Excused: 05

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Chandler, Edwards, Flannigan, Pflug, Schoesler

2003 Regular Session

Chamber: SENATE
Bill No.: SHB 1738
Description: 3RD READING & FINAL PASSAGE
Item No.: 4
Transcript No.: 88
Date: 04-10-2003

Yeas: 47 Nays: 00 Absent: 00 Excused: 02

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

Excused: Senators Hargrove, Horn

COMMERCIAL FISHERIES

Second Substitute House Bill 1887

BACKGROUND

The Washington State Department of Fish and Wildlife (WDFW) manages most commercial fisheries in Washington and issues commercial fishing licenses. Many fisheries are closed fisheries, meaning that the number of licenses issued for that fishery is capped at a set number. These fisheries include the coastal Dungeness crab fishery and the ocean pink shrimp fishery.

To receive a crab-coastal or ocean pink shrimp fishery license, a fisher must demonstrate that he or she met certain criteria relating to historic harvest levels. The license is, however, transferable to another fisher that does not meet the defined criteria for license issuance.

If less than 175 fishers are eligible for a crab-coastal license WDFW may issue new licenses until a total of 175 licenses have been issued. WDFW must adopt rules for the notification, selection, and issuance of any new licenses.

Occasionally the federal government undertakes efforts to reduce the size of the fleets operating in certain fisheries by purchasing individual fishing licenses. In 2003 the United States Congress decided to do this for the groundfish, Dungeness crab, and pink shrimp fisheries in Washington, Oregon, and California. Interested fishers will have the opportunity to offer a bid to

have their licenses purchased by the federal government. The buyback program was funded with a 30-year loan that is designed to be repaid by the remaining fishers in the fleet.

SUMMARY

If the federal government creates a groundfish fleet reduction buyback program, the Fish and Wildlife Commission (Commission) is authorized to collect a fee from commercial fishers holding an ocean pink shrimp license or a coastal Dungeness crab license. The Commission may establish the fee amount through administrative rule, and all fees collected must be used to reimburse the federal government for the permit buyback program. The set fee may not be more than is necessary for federal reimbursement and may not be greater than 2 percent of annual landings for crab fishers or more than 5 percent of annual landings for coastal groundfish and ocean pink shrimp fleets. If any crab fisher participates in the federal buyback program, he or she may not be issued a new commercial crab license for 10 years, as long as Oregon and California institute a similar prohibition. The fee established by the Commission expires in 2033, unless the federal buyback program is completed sooner.

The statutory provision that requires WDFW to maintain a maximum of 175 coastal crab licenses is repealed.

The non-appropriated Commercial Fisheries Buyback Account is created to hold any fees until they are distributed to the federal government. Once the federal government has been reimbursed, the Account may be used for other fleet reduction efforts.

RESOURCE IMPACTS

Division staff time is necessary to provide technical support to implement buyback fees on all applicable commercial licenses.

FUNDING IMPACTS

Minimal funding impact, associated with meetings, developing business rules, reconciling buyback fees and implementing communication plan.

FUNDING SOURCE

None provided.

COMMITTEES CREATED

None

WORK PLAN

- Review Federal buyback contract that is not expected until November 2003.

- Discuss criteria with WDFW Intergovernmental Resource Management, and recommend fee increase as required by contract.
- On or around November 2003 the WDFW Director will need to request to the Commission that he be delegated the authority to set the buyback rates.

TIMETABLE

New fees will not be assessed until a Federal Buyback contract is available. The Federal Buyback contract is not expected until after November 2003. Depending on federal guidelines, fees could be in place by the first quarter of 2004.

LEGISLATIVE REPORTS

None required.

WDFW STAFF CONTACT

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Business Services – License Division
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FINAL BILL REPORT

2SHB 1887

C 174 L 03

Synopsis as Enacted

Brief Description: Creating the commercial fisheries permit buyback account.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Linville, Sump, Cooper, Buck and Hatfield).

House Committee on Fisheries, Ecology & Parks
House Committee on Appropriations
Senate Committee on Parks, Fish & Wildlife

Background:

The Department of Fish and Wildlife (DFW) manages most commercial fisheries in Washington and issues commercial fishing licenses. Many fisheries are closed fisheries, meaning that the number of licenses issued for that fishery is capped at a set number. These fisheries include the coastal Dungeness crab fishery and the ocean pink shrimp fishery.

To receive a crab-coastal or ocean pink shrimp fishery license, a fisher must demonstrate that he or she met certain criteria relating to historic harvest levels. The license is, however, transferrable to another fisher that does not meet the defined criteria for license issuance.

If less than 175 fishers are eligible for a crab-coastal license, the DFW may issue new licenses until a total of 175 licenses have been issued. The DFW must adopt rules for the notification, selection, and issuance of any new licenses.

Occasionally the federal government undertakes efforts to reduce the size of the fleets operating in certain fisheries by purchasing individual fishing licenses. In 2003 the United States Congress decided to do this for the groundfish, Dungeness crab, and pink shrimp fisheries in Washington, Oregon, and California. Interested fishers will have the opportunity to offer a bid to have their licenses purchased by the federal government. The buyback program was funded with a 30-year loan that is designed to be repaid by the remaining fishers in the fleet.

Summary:

If the federal government creates a groundfish fleet reduction buyback program, the Fish and Wildlife Commission (Commission) is authorized to collect a fee from commercial fishers holding an ocean pink shrimp license or a coastal Dungeness

crab license. The Commission may establish the fee amount through administrative rule, and all fees collected must be used to reimburse the federal government for the permit buyback program. The set fee may not be more than is necessary for federal reimbursement and may not be greater than 2 percent of annual landings for crab fishers or more than 5 percent of annual landings for all other fleets. If any crab fisher participates in the federal buyback program, he or she may not be issued a new commercial crab license for 10 years, as long as Oregon and California institute a similar prohibition. The fee established by the Commission expires in 2033, unless the federal buyback program is completed sooner.

The statutory provision that requires the DFW to maintain a maximum of 175 coastal crab licenses is repealed.

The non-appropriated Commercial Fisheries Buyback Account is created to hold any fees until they are distributed to the federal government. Once the federal government has been reimbursed, the Account may be used for other fleet reduction efforts.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: July 27, 2003

Roll Calls on a Bill: 1887 (2003-04)

Brief Description: Creating the commercial fisheries permit buyback account.

2003 Regular Session

Chamber: HOUSE
Bill No.: 2SHB 1887
Description: FINAL PASSAGE
Item No.: 32
Transcript No.: 60
Date: 03-13-2003

Yeas: 96 Nays: 00 Absent: 00 Excused: 02

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Voloria, Wallace, Wood, Woods, and Mr. Speaker
Excused: Representatives Edwards, Pflug

2003 Regular Session

Chamber: SENATE
Bill No.: 2SHB 1887
Description: 3RD READING & FINAL PASSAGE
Item No.: 11
Transcript No.: 89
Date: 04-11-2003

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

TOURISM PROMOTION

Second Substitute House Bill 1973

BACKGROUND

Washington is 68,139 square miles of diverse geography, geology, and climate. The west side of the state has ancient rain forests, miles of Pacific Ocean coastline, some of the state's largest cities and the Space Needle. The east side of the state is traditionally dry and sunny, with a big sky, wide-open spaces, farms, and ranches. There are also spectacular canyons, gorges and the Grand Coulee Dam. The state is divided by the majestic Cascade Mountains. All in all, Washington offers many opportunities for tourists of all interests.

In 2000 over 25.9 million visitors enjoyed Washington parks. There are also thousands of licensed elk and deer hunters that take advantage of the outdoors. Sport fishermen and sport shell fishers enjoy the salmon, steelhead, and razor clams found in Washington.

Wildlife viewing is an increasing industry that generates annually \$1.7 billion and supports 21,000 jobs in this state. In fact, wildlife viewing is the fastest growing outdoor activity and segment of the travel industry. This activity thrives in the rural areas and the opportunities for wildlife viewing primarily occur on public lands.

SUMMARY

The Department of Community, Trade, and Economic Development (CTED) is directed to promote Washington as a tourism destination to both national and international markets. The promotion should include nature-based and wildlife viewing tourism. CTED must also work with local communities and businesses to strengthen tourism opportunities and promotion. In addition, CTED is directed to coordinate its tourism planning in conjunction with local efforts, the Washington Department of Fish and Wildlife (WDFW) and other appropriate agencies and private organizations. The plan should include efforts to promote nature-based tourism in Washington.

CTED may solicit and receive gifts, grants, funds, fees, and endowments for tourism promotion. The moneys collected shall be deposited in the tourism development and promotion account and may be used for tourism promotion activities including hosting conferences and strategic planning workshops, conducting tourism studies, and providing marketing and technical assistance. No appropriation is required for expenditures from this account.

RESOURCE IMPACTS

Minimal

FUNDING IMPACTS

Requires CTED to create a plan using existing resources.

FUNDING SOURCE

None

COMMITTEES CREATED

CTED is lead on this, and has created an internal group.

WORK PLAN

CTED is developing a work plan.

TIMETABLE

Unknown

LEGISLATIVE REPORTS

CTED will develop and coordinate any legislative reports.

WDFW STAFF CONTACT

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FINAL BILL REPORT

2SHB 1973

C 153 L 03

Synopsis as Enacted

Brief Description: Promoting tourism.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Veloria, McCoy and Kenney).

House Committee on Trade & Economic Development

House Committee on Appropriations

Senate Committee on Economic Development

Background:

Washington is 68,139 square miles of diverse geography, geology, and climate. The west side of the state has ancient rain forests, miles of Pacific Ocean coastline, some of the state's largest cities and the Space Needle. The east side of the state is traditionally dry and sunny, with a big sky, wide-open spaces, farms and ranches. There are also spectacular canyons, gorges and the Grand Coulee Dam. The state is divided by the majestic Cascade Mountains. All in all, Washington offers many opportunities for tourists of all interests.

In 2000 over 25.9 million visitors enjoyed Washington parks. There are also thousands of licensed elk and deer hunters that take advantage of the outdoors. Sport fishermen and sport shellfishers enjoy the salmon, steelhead, and razor clams found in Washington.

Wildlife viewing is an increasing industry that generates \$1.7 billion annually and supports 21,000 jobs in Washington. In fact, wildlife viewing is the fastest growing outdoor activity and segment of the travel industry. This activity thrives in the rural areas and the opportunities for wildlife viewing primarily occur on public lands.

Summary:

The Department of Community, Trade and Economic Development (DCTED) is directed to promote Washington as a tourism destination to both national and international markets. The promotion should include nature-based and wildlife viewing tourism. The DCTED must also work with local communities and businesses to strengthen tourism opportunities and promotion. In addition, the DCTED is directed to coordinate its tourism planning in conjunction with local efforts, the Department of Fish and Wildlife and other appropriate agencies and private

organizations. The plan should include efforts to promote nature-based tourism in Washington.

The DCTED may solicit and receive gifts, grants, funds, fees, and endowments for tourism promotion. The moneys collected must be deposited in the tourism development and promotion account and may be used for tourism promotion activities including hosting conferences and strategic planning workshops, conducting tourism studies, and providing marketing and technical assistance. No appropriation is required for expenditures from this account.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

Roll Calls on a Bill: 1973 (2003-04)

Brief Description: Promoting tourism.

2003 Regular Session

Chamber: HOUSE
Bill No.: 2SHB 1973
Description: FINAL PASSAGE
Item No.: 32
Transcript No.: 61
Date: 03-14-2003

Yeas: 95 Nays: 00 Absent: 00 Excused: 03

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker
Excused: Representatives Edwards, Mastin, Pflug

2003 Regular Session

Chamber: SENATE
Bill No.: 2SHB 1973
Description: 3RD READING & FINAL PASSAGE AS AMENDED BY THE SENATE
Item No.: 39
Transcript No.: 94
Date: 04-16-2003

Yeas: 48 Nays: 00 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide,

Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

Excused: Senator West

2003 Regular Session

Chamber: HOUSE
Bill No.: 2SHB 1973
Description: FP AS AMD BY THE SENATE
Item No.: 30
Transcript No.: 100
Date: 04-22-2003

Yeas: 97 Nays: 00 Absent: 00 Excused: 01

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representative Clements

REVISION AND VARIANCE REPORTING OF NONCASH DEFICIT-RELATED STATE AGENCY ALLOTMENTS

Substitute House Bill 2196

BACKGROUND

Allotment Process

The Budget and Accounting Act assigns the Office of Financial Management (OFM) various budget planning, monitoring, and reporting requirements. The allotment process is a mechanism through which OFM approves and oversees state agency expenditures.

In general, allotments are expenditure plans proposed by agencies and reviewed and approved by OFM. Based on the appropriations in the budget bill, agencies must submit a statement of proposed expenditures to OFM. (Additionally, many accounts are subject to the allotment process even though the accounts do not require an appropriation for expenditures.) The statement must break each appropriation into monthly detail that represents the best estimate of how the appropriation will be spent. Allotments must conform to any conditions or limitations placed on the appropriation that is being allotted. OFM reviews the proposed allotments for reasonableness and conformance with legislative intent. After this review, OFM approves or disapproves the proposed allotments, and it places the approved statement into the state budget, accounting, and reporting system. Allotments for the legislative and judicial branches and agencies headed by separately elected officials are placed into the accounting

system, but are not subject to OFM's approval.

Allotment Revisions

Once OFM approves allotments, they may be revised only under certain circumstances. As a general rule, allotments may be revised only at the beginning of the second year of the fiscal biennium, unless there are changes in appropriated levels (as in a supplemental budget) or changes caused by across-the-board reductions.

Reporting of Variations from Allotments

OFM must monitor agencies' expenditures against their allotments, and it must provide the Legislature with quarterly explanations of major variances.

SUMMARY

Allotment Revisions

The Governor may request correction of allotments proposed by the judicial and legislative branches and by agencies headed by separately elected officials if the proposed allotments contain significant technical errors.

At OFM's request or on an agency's own initiative, allotments may be revised on a quarterly basis. Allotments may also be revised to reflect executive increases to spending authority.

Examples of this kind of increase include expenditures approved through the unanticipated receipts process or expenditures from the Governor's emergency fund. The allotment revisions must include a statement of explanation for significant changes in the allotments. The agency will submit these explanations using a new form. OFM may also request WDFW to submit an allotment amendment.

Reporting of Variances from Allotments

OFM is no longer required to provide a quarterly allotment variance report to the Legislature. OFM will continue to monitor actual expenditures against allotments and post monthly fiscal status reports on the OFM Web-site.

RESOURCE IMPACTS

Budget staff will provide technical support to programs to implement the new allotment procedures. Staff support will include meetings, timeline for implementation and allotment development.

FUNDING IMPACTS

No impacts.

FUNDING SOURCE

No impact.

COMMITTEES CREATED

None

WORK PLAN

- Assist resource programs with development of their allotments based on expenditure trends and special needs.
- Provide technical support to resource programs to prepare allotment and allotment amendment; and analyze monthly allotment/expenditure variances.

TIMETABLE

The revision required for submitting allotment amendments and quarter allotment/expenditure variance reports will be implemented July 1, 2003.

LEGISLATIVE REPORTS

None

WDFW STAFF CONTACT

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FINAL BILL REPORT

SHB 2196

C 206 L 03

Synopsis as Enacted

Brief Description: Revising and reporting on state agency allotments.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Sommers and Fromhold; by request of Office of Financial Management).

House Committee on Appropriations
Senate Committee on Ways & Means

Background:

Allotment Process

The Budget and Accounting Act assigns the Office of Financial Management (OFM) various budget planning, monitoring, and reporting requirements. The allotment process is a mechanism through which the OFM approves and oversees state agency expenditures.

In general, allotments are expenditure plans proposed by agencies and reviewed and approved by the OFM. Based on the appropriations in the budget bill, agencies must submit a statement of proposed expenditures to the OFM. (Additionally, many accounts are subject to the allotment process even though the accounts do not require an appropriation for expenditures.) The statement must break each appropriation into monthly detail that represents the best estimate of how the appropriation will be spent. Allotments must conform to any conditions or limitations placed on the appropriation that is being allotted. The OFM reviews the proposed allotments for reasonableness and conformance with legislative intent. After this review, the OFM approves or disapproves the proposed allotments, and it places the approved statement into the state budget, accounting, and reporting system. Allotments for the legislative and judicial branches and agencies headed by separately elected officials are placed into the accounting system, but are not subject to the OFM's approval.

Allotment Revisions

Once the OFM approves allotments, they may be revised only under certain circumstances. As a general rule, allotments may be revised only at the beginning

of the second year of the fiscal biennium, unless there are changes in appropriated levels (as in a supplemental budget) or changes caused by across-the-board reductions.

Reporting of Variations from Allotments

The OFM must monitor agencies' expenditures against their allotments, and it must provide the Legislature with quarterly explanations of major variances.

Summary:

Allotment Revisions

The Governor may request correction of allotments proposed by the judicial and legislative branches and by agencies headed by separately elected officials if the proposed allotments contain significant technical errors.

At the OFM's request or on an agency's own initiative, allotments may be revised on a quarterly basis. Allotments may also be revised to reflect executive increases to spending authority. Examples of this kind of increase include expenditures approved through the unanticipated receipts process or expenditures from the Governor's emergency fund. The allotment revisions must include a statement of the reasons for significant changes in the allotments.

Reporting of Variances from Allotments

The OFM is no longer required to provide a quarterly allotment variance report to the Legislature.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: July 1, 2003

Roll Calls on a Bill: 2196 (2003-04)

Brief Description: Revising and reporting on state agency allotments.

2003 Regular Session

Chamber: HOUSE
Bill No.: SHB 2196
Description: FINAL PASSAGE
Item No.: 34
Transcript No.: 61
Date: 03-14-2003

Yeas: 95 Nays: 00 Absent: 00 Excused: 03

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Excused: Representatives Edwards, Mastin, Pflug

2003 Regular Session

Chamber: SENATE
Bill No.: SHB 2196
Description: 3RD READING & FINAL PASSAGE
Item No.: 36
Transcript No.: 94
Date: 04-16-2003

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

PROMOTING WILDLIFE VIEWING

Senate Bill 5011

BACKGROUND

Wildlife viewing is an increasingly popular form of outdoor recreation. The state of Washington maintains a program to protect and manage watchable wildlife. There is no designated state program to promote wildlife viewing, increase the awareness of wildlife viewing opportunities, or organize wildlife viewing events.

SUMMARY

The Washington Department of Fish and Wildlife (WDFW) is directed to manage wildlife programs in a manner that supports wildlife viewing tourism without impairing wildlife resources.

WDFW and the Department of Community, Trade, and Economic Development (CTED) are directed to host a conference on wildlife viewing tourism, working with interested local governments, state agencies, and stakeholders. The objective of the conference shall be adoption of a strategic plan and specific implementing actions for promotion of wildlife viewing tourism in a manner that provides sustainable rural economic development and maintains wildlife diversity. A summary of conference recommendations must be submitted to the Legislature by December 15, 2003.

RESOURCE IMPACTS

Minimal

FUNDING IMPACTS

No money to implement; will require program resources to produce and market.

FUNDING SOURCE

Wildlife Program; CTED

COMMITTEES CREATED

Mike O'Malley, WDFW
Chuck Gibilisco, WDFW
George Sharp, CTED
Joan Stilz, CTED
Nina Carter, Audubon Washington

WORK PLAN

Conduct a two-part conference: a general brainstorm/scoping/needs assessment meeting September 3-4, 2003 in Olympia; present findings at statewide Tourism Forum, November 19, 2003 in Seattle.

TIMETABLE

June – August

- Plan for September 3-4 event.
- Conduct survey of other state efforts.

September 3

- Conduct needs assessment and introductory planning with general audience.

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omallmfo@dfw.wa.gov

Chuck Gibilisco
Wildlife Program
(360) 902-2364

gibilcig@dfw.wa.gov

September 4

- Committee members refine input and write plan.

Lief Larson
Wildlife Program
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larsol@dfw.wa.gov

November 19

- Present findings at afternoon session of the Tourism Forum 2003; ask for feedback.

November 20

- Conduct exhibit at Governor's Economic Development Conference.

LEGISLATIVE REPORTS

Findings and input to be presented to House and Senate committees early in the 2004 legislative session.

Request funding of key findings through the Supplemental Budget.

WDFW STAFF CONTACT

Mike O'Malley
Wildlife Program

FINAL BILL REPORT SB 5011

C 183 L 03

Synopsis as Enacted

Brief Description: Promoting wildlife viewing.

Sponsors: Senators Jacobsen, Winsley and Kohl-Welles.

Senate Committee on Parks, Fish & Wildlife
House Committee on Fisheries, Ecology & Parks

Background: Wildlife viewing is an increasingly popular form of outdoor recreation. The state of Washington maintains a program to protect and manage watchable wildlife. There is no designated state program to promote wildlife viewing, increase the awareness of wildlife viewing opportunities, or organize wildlife viewing events.

Summary: The Department of Fish and Wildlife is directed to manage wildlife programs in a manner that supports wildlife viewing tourism without impairing wildlife resources.

The departments of Fish and Wildlife and Community, Trade, and Economic Development are directed to host a conference on wildlife viewing tourism, working with interested local governments, state agencies, and stakeholders. The objective of the conference shall be adoption of a strategic plan and specific implementing actions for promotion of wildlife viewing tourism in a manner that provides sustainable rural economic development and maintains wildlife diversity. A summary of conference recommendations must be submitted to the Legislature by December 15, 2003.

Votes on Final Passage:

Senate	49	0	
House	92	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 27, 2003

Roll Calls on a Bill: 5011 (2003-04)

Brief Description: Promoting wildlife viewing.

2003 Regular Session

Chamber: SENATE
Bill No.: SB 5011
Description: 3RD READING & FINAL PASSAGE
Item No.: 49
Transcript No.: 58
Date: 03-11-2003

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

2003 Regular Session

Chamber: HOUSE
Bill No.: SB 5011
Description: FP AS AMD BY THE HOUSE
Item No.: 1
Transcript No.: 87
Date: 04-09-2003

Yeas: 92 Nays: 00 Absent: 00 Excused: 06

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy,

McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Woods, and Mr. Speaker

Excused: Representatives Conway, Edwards, Fromhold, Quall, Sehlin, Wood

2003 Regular Session

Chamber: SENATE

Bill No.: SB 5011

Description: FINAL PASSAGE AS AMENDED BY THE HOUSE

Item No.: 20

Transcript No.: 99

Date: 04-21-2003

Yeas: 43 Nays: 00 Absent: 00 Excused: 06

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Thibaudeau, Winsley, Zarelli

Excused: Senators Finkbeiner, Horn, Kline, Schmidt, Swecker, West

FISH ENHANCEMENT PROGRAM

Substitute Senate Bill 5062

BACKGROUND

The Puget Sound Recreational Fisheries Enhancement Program was created by the Legislature in 1993 to increase recreational fishing opportunities for salmon and bottomfish in Puget Sound. The Washington Department of Fish and Wildlife (WDFW) is required to produce delayed-release chinook salmon, with a production goal of three million fish annually. The department is also required to research and develop programs for the artificial rearing and release of marine bottomfish species.

The program is funded with a portion of each saltwater and combination recreational fishing license fee. Funds are deposited in the recreational fisheries enhancement account, which is dedicated solely to the enhancement program.

In the 2002 supplemental budget, one of the hatcheries used to raise delayed-release chinook was closed. Concerns have been raised by recreational fishers that dedicated funds are not being used to support the enhancement program.

FUNDING SOURCE

SUMMARY

The Puget Sound Recreational Fisheries Enhancement Oversight Committee is created. The Director of WDFW must appoint at least seven members to the committee to ensure broad representation from sport fishing organizations.

The committee must advise the department on all aspects of the Puget Sound Recreational Fisheries Enhancement Program, including the annual budget and proposed annual production of salmon and other species.

Funds in the recreational fisheries enhancement account may not be used to backfill shortfalls in other state funding sources.

RESOURCE IMPACTS

No resource impacts

FUNDING IMPACTS

There is a potential impact to Soos Creek, which is currently utilizing Puget Sound Recreational Enhancement funds (\$205,000).

Puget Sound Recreational Enhancement Funds

COMMITTEES CREATED

(360) 902-2236

floortaf@dfw.wa.gov

Puget Sound Recreational Fisheries
Enhancement Oversight Committee

WORK PLAN

- Letter from the WDFW Director will be sent to existing members of the unofficial committee requesting them to submit a letter of interest if interested in becoming a member of the official committee.
- Early June, a letter from the WDFW Director will be sent to various organized sport groups and other affiliations requesting them to submit a letter of interest in becoming a member of this committee.
- Letters of interest will be reviewed by the Director in August 2003.
- September 1, 2003, the first meeting with new members will be held.

TIMETABLE

Not defined in legislation.

LEGISLATIVE REPORTS

None

WDFW STAFF CONTACT

Tony Floor
Fish Program – Hatcheries

FINAL BILL REPORT

SSB 5062

C 173 L 03

Synopsis as Enacted

Brief Description: Creating the Puget Sound recreational fisheries enhancement oversight committee.

Sponsors: Senate Committee on Parks, Fish & Wildlife (originally sponsored by Senators Doumit, Oke, Jacobsen, Winsley, Rasmussen and Kohl-Welles).

Senate Committee on Parks, Fish & Wildlife

House Committee on Fisheries, Ecology & Parks

House Committee on Appropriations

Background: The Puget Sound Recreational Fisheries Enhancement Program was created by the Legislature in 1993 to increase recreational fishing opportunities for salmon and bottomfish in Puget Sound. The Department of Fish and Wildlife is required to produce delayed-release chinook salmon, with a production goal of three million fish annually. The department is also required to research and develop programs for the artificial rearing and release of marine bottomfish species.

The program is funded with a portion of each saltwater and combination recreational fishing license fee. Funds are deposited in the recreational fisheries enhancement account, which is dedicated solely to the enhancement program.

In the 2002 supplemental budget, one of the hatcheries used to raise delayed-release chinook was closed. Concerns have been raised by recreational fishers that dedicated funds are not being used to support the enhancement program.

Summary: The Puget Sound Recreational Fisheries Enhancement Oversight Committee is created. The director of the Department of Fish and Wildlife must appoint at least seven members to the committee to ensure broad representation from sport fishing organizations.

The committee must advise the department on all aspects of the Puget Sound Recreational Fisheries Enhancement Program, including the annual budget and proposed annual production of salmon and other species.

Funds in the recreational fisheries enhancement account may not be used to backfill shortfalls in other state funding sources.

Votes on Final Passage:

Senate	45	4
House	95	0

Effective: July 27, 2003

Roll Calls on a Bill: 5062 (2003-04)

Brief Description: Creating the Puget Sound recreational fisheries enhancement oversight committee.

2003 Regular Session

Chamber: SENATE
Bill No.: SSB 5062
Description: 3RD READING & FINAL PASSAGE
Item No.: 6
Transcript No.: 64
Date: 03-17-2003

Yeas: 45 Nays: 04 Absent: 00 Excused: 00

Voting yea: Senators Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Swecker, Thibaudeau, West, Winsley, Zarelli

Voting nay: Senators Benton, Brandland, Mulliken, Stevens

2003 Regular Session

Chamber: HOUSE
Bill No.: SSB 5062
Description: FINAL PASSAGE
Item No.: 4
Transcript No.: 88
Date: 04-10-2003

Yeas: 95 Nays: 00 Absent: 00 Excused: 03

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett,

Kagi, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Woods, and Mr. Speaker

Excused: Representatives Edwards, Kenney, Wood

WATCHABLE WILDLIFE DECALS

Substitute Senate Bill 5204

BACKGROUND

Wildlife viewing is rated as the number one outdoor activity in the United States. According to the U.S. Fish and Wildlife Service, almost \$1 billion was spent on wildlife viewing in Washington State in 2001.

A vehicle use permit is required to use Washington Department of Fish and Wildlife lands (WDFW) and access areas. The permit may be purchased separately for \$10, or is provided at no charge with any hunting and fishing license. A person may also choose to make contributions to the Department of Fish and Wildlife for the sound stewardship of fish and wildlife. Contributors are known as "conservation patrons" and receive the vehicle use permit at no charge.

SUMMARY

WDFW may sell watchable wildlife decals at a cost determined by the Fish and Wildlife Commission. Proceeds from the sale of the decal are used to support watchable wildlife activities of the department, including building infrastructure to serve wildlife viewers and assisting local communities in developing events, tours, trails, and brochures.

A person may contribute more than the cost of the watchable wildlife decal. A

vehicle use permit is issued with every watchable wildlife decal at no charge.

Authority for WDFW to accept general contributions from conservation patrons is deleted.

RESOURCE IMPACTS

Minimal

FUNDING IMPACTS

No money to implement; will require program resources to produce and market.

FUNDING SOURCE

Wildlife Program; Business Services

COMMITTEES CREATED

A workgroup led by Mike O'Malley and Frank Hawley will be responsible for bringing recommendations on decal design and decal sale logistics to the Assistant Directors of Wildlife and Business Services Programs.

WORK PLAN

- Develop options and costs.
- Present to the Assistant Directors of the Wildlife and Business Services Programs;
- Modify as directed.
- Submit to the Management Team for approval.

TIMETABLE

- Implementation with new license sales - December 2003
- Commission action to adopt fee - August or September 2003

LEGISLATIVE REPORTS

None anticipated the first year. After a year of sales, present results to legislative staff.

WDFW STAFF CONTACT

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Frank Hawley
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FINAL BILL REPORT

SSB 5204

C 317 L 03

Synopsis as Enacted

Brief Description: Providing opportunities for wildlife viewing.

Sponsors: Senate Committee on Parks, Fish & Wildlife (originally sponsored by Senators Oke, Doumit, T. Sheldon, Jacobsen, Swecker, Kohl-Welles and Esser; by request of Department of Fish and Wildlife).

Senate Committee on Parks, Fish & Wildlife
House Committee on Fisheries, Ecology & Parks

Background: Wildlife viewing is rated as the number one outdoor activity in the United States. According to the U.S. Fish and Wildlife Service, almost \$1 billion was spent on wildlife viewing in Washington State in 2001.

A vehicle use permit is required to use Department of Fish and Wildlife lands and access areas. The permit may be purchased separately for \$10, or is provided at no charge with any hunting and fishing license. A person may also choose to make contributions to the Department of Fish and Wildlife for the sound stewardship of fish and wildlife. Contributors are known as "conservation patrons" and receive the vehicle use permit at no charge.

Summary: The Department of Fish and Wildlife may sell watchable wildlife decals at a cost determined by the Fish and Wildlife Commission. Proceeds from the sale of the decal are used to support watchable wildlife activities of the department, including building infrastructure to serve wildlife viewers and assisting local communities in developing events, tours, trails, and brochures.

A person may contribute more than the cost of the watchable wildlife decal. A vehicle use permit is issued with every watchable wildlife decal at no charge.

Authority for the department to accept general contributions from conservation patrons is deleted.

Votes on Final Passage:

Senate	48	0
House	91	4

Effective: July 27, 2003

Roll Calls on a Bill: 5204 (2003-04)

Brief Description: Providing opportunities for wildlife viewing.

2003 Regular Session

Chamber: SENATE
Bill No.: SSB 5204
Description: 3RD READING & FINAL PASSAGE
Item No.: 8
Transcript No.: 63
Date: 03-16-2003

Yeas: 48 Nays: 00 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

Excused: Senator Poulsen

2003 Regular Session

Chamber: HOUSE
Bill No.: SSB 5204
Description: FINAL PASSAGE
Item No.: 7
Transcript No.: 88
Date: 04-10-2003

Yeas: 91 Nays: 04 Absent: 00 Excused: 03

Voting yea: Representatives Ahern, Alexander, Armstrong, Bailey, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott,

McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Woods, and Mr. Speaker

Voting nay: Representatives Anderson, Benson, DeBolt, Pflug

Excused: Representatives Edwards, Kenney, Wood

EXPIRATION DATE OF TRANSPORTATION PERMIT EFFICIENCY & ACCOUNTABILITY COMMITTEE

Engrossed Senate Bill 5279

BACKGROUND

The Transportation Permit Efficiency and Accountability Committee (TPEAC) was created by the passage of Senate Bill 6188 in 2001. The committee was created with the goal of achieving transportation permit reform that expedites the delivery of transportation projects through a streamlined approach to environmental permit decision-making. The legislation charged the committee with the task of integrating current environmental standards. To carry out this task, the committee was directed to conduct three environmental permit streamlining projects, develop a one-stop permit decision-making process, seek federal delegation of permitting where appropriate, develop a dispute resolution process and develop various other permitting efficiency measures.

The committee includes nine voting members: four members of the state Legislature, three members from state agencies, and two local government representatives. Eight non-voting members include business, tribal, trade and environmental organizations. Federal agencies also participate.

An appropriation of \$3,296,000 was provided to the Washington State Department of Transportation (WSDOT) for support of the committee during the 2001-03 biennium. Other agencies contributed to the cost of the effort

through dedicated staff time and other in-kind contributions. The act creating TPEAC expires March 31, 2003.

SUMMARY

The committee is extended to March 31, 2006. Goals for specific outcomes are established. Detailed work plans are required, and dates are set for reports on progress.

RESOURCE IMPACTS

Continuation of at least the three existing FTEs (one Fish & Wildlife Biologist 4 and two Environmental Specialist 4), working on existing sub-committees, is needed to complete TPEAC tasks. Less than the three FTEs will require participation by other existing staff at the expense of other pre-existing work priorities, or no participation by Washington Department of Fish and Wildlife (WDFW) in some of the TPEAC tasks.

FUNDING IMPACTS

Without continued funding, through WSDOT contract, continued participation by WDFW will require diversion of other existing funding to complete the requirements of this bill. Diverted funding will mean other non-TPEAC work will not be completed.

FUNDING SOURCE

Funding was appropriated last biennium to WSDOT under Engrossed Substitute House Bill 1163 for TPEAC. Included in that funding source was \$450,000 for WDFW for 3 FTE. That same amount of funding (\$450,000 for 3 FTE) will be allotted to WDFW for the 2003-2005 biennium.

COMMITTEES CREATED

Four sub-committees (One-Stop/Pilot Projects, Watershed Planning, Programmatic and Training/Compliance/Monitoring) currently exist. Originally One-Stop was a separate sub-committee, which was combined with Pilot Projects. Based on bill requirements, it's likely this sub-committee will reconvene separately from the Pilot Projects. It's anticipated that the sub-committees will continue into the 2003-05 biennium.

WORK PLAN

Each sub-committee has detailed work plans from the last biennium, which will likely carry over, in part, into the 2003-05 biennium. The bill requires TPEAC develop detailed work plans by June 30, 2003 for the 2003-05 biennium. Last biennium WSDOT developed the detailed work plans. It is anticipated the same will occur for the 2003-05 biennium work plans.

Section 9(b) directs WDFW, with WSDOT and the Department of Ecology, to review relevant federal, state and local environmental laws, regulations, policies, guidance, studies, and streamlining initiatives to identify instances that would allow delegation for permit issuance to WSDOT or other duly recognized entity.

TIMETABLE

- Detailed work plans for one-stop permitting activities, programmatic agreement opportunities, and watershed-based mitigation activities are to be developed by June 30, 2003.
- A schedule of activities and resources needed to complete nine previously identified programmatic agreements is due by June 30, 2004.
- A prioritized list of remaining WSDOT activities eligible for programmatic, multi-agency consideration is due by September 20, 2003.
- A report on the potential for delegation, including a work plan and schedule of activities and resources needed for implementation, is due by September 30, 2003.
- A schedule of activities and resources needed to complete a watershed-based mitigation policy that covers elements of permitting deemed appropriate by TPEAC is due by December 31, 2003.
- A schedule to integrate watershed-based mitigation policies, technical tools, and procedures for projects is due by June 30, 2005.
- A schedule of activities and resources to achieve completion of the prioritized list of programmatic agreements is due by December 31, 2005.

LEGISLATIVE REPORTS

A report on findings of potential circumstances for delegation, recommendations to proceed and an implementation work plan is due September 30, 2003. Another report regarding implementation progress is due December 31, 2003, and every six months thereafter.

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Status reports for the one-stop permitting and local government uniform standards sub-committee work is due by December 31, 2003.

A summary report on TPEAC's status and performance and progress implementing the master work plan is due December 31, 2003 and every six months thereafter.

A final report for the local government uniform standards sub-committee work is due by December 31, 2004.

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FINAL BILL REPORT ESB 5279

C 8 L 03

Synopsis as Enacted

Brief Description: Extending the expiration date of the transportation permit efficiency and accountability committee.

Sponsors: Senators Prentice, Swecker, Horn, Haugen, Doumit, Finkbeiner, Benton, Esser, Morton, Johnson, T. Sheldon, Hargrove, Brandland, Honeyford, Jacobsen, Oke and Rasmussen.

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: The Transportation Permit Efficiency and Accountability Committee (TPEAC) was created by Engrossed Senate Bill 6188, Chapter 2, Laws 2001, 1st special session. The committee was created with the goal of achieving transportation permit reform that expedites the delivery of transportation projects through a streamlined approach to environmental permit decision making. The legislation charged the committee with the task of integrating current environmental standards. To carry out this task, the committee was directed to conduct three environmental permit streamlining projects, develop a one-stop permit decision-making process, seek federal delegation of permitting where appropriate, develop a dispute resolution process and develop various other permitting efficiency measures.

The committee includes nine voting members: four members of the state Legislature, three members from state agencies, and two local government representatives. Eight non-voting members include business, tribal, trade and environmental organizations. Federal agencies also participate.

An appropriation of \$3,296,000 was provided to the Department of Transportation for support of the committee during the 2001-03 biennium. Other agencies contributed to the cost of the effort through dedicated staff time and other in-kind contributions. The act creating TPEAC expires March 31, 2003.

Summary: The committee is extended to March 31, 2006. Goals for specific outcomes are established. Detailed work plans are required, and dates are set for reports on progress.

Votes on Final Passage:

Senate	46	0
House	70	19

Effective: March 31, 2003

Roll Calls on a Bill: 5279 (2003-04)

Brief Description: Extending the expiration date of the transportation permit efficiency and accountability committee.

2003 Regular Session

Chamber: SENATE
Bill No.: ESB 5279
Description: 3RD READING & FINAL PASSAGE
Item No.: 21
Transcript No.: 65
Date: 03-18-2003

Yeas: 46 Nays: 00 Absent: 01 Excused: 02

Voting yea: Senators Benton, Brandland, Brown, Carlson, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

Absent: Senator Finkbeiner

Excused: Senators Deccio, Kline

2003 Regular Session

Chamber: HOUSE
Bill No.: ESB 5279
Description: 327 ERICKSEN STRIKER
Item No.: 1
Transcript No.: 75
Date: 03-28-2003

Yeas: 39 Nays: 51 Absent: 00 Excused: 08

Voting yea: Representatives Ahern, Anderson, Bailey, Benson, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Clements, Condotta, Cox, Crouse, DeBolt, Delvin, Ericksen, Hinkle, Holmquist, Kristiansen,

McDonald, McMahan, McMorris, Mielke, Newhouse, Nixon, Orcutt, Pearson, Pflug, Priest, Roach, Schindler, Schoesler, Sehlin, Shabro, Skinner, Sump, Tom, Woods

Voting nay: Representatives Armstrong, Berkey, Blake, Chase, Clibborn, Cody, Conway, Cooper, Darneille, Dickerson, Dunshee, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Pettigrew, Rockefeller, Romero, Ruderman, Santos, Simpson, Sommers, Sullivan, Upthegrove, Veloria, Wallace, Wood, and Mr. Speaker

Excused: Representatives Alexander, Boldt, Edwards, Eickmeyer, Mastin, Quall, Schual-Berke, Talcott

2003 Regular Session

Chamber: HOUSE
 Bill No.: ESB 5279
 Description: FINAL PASSAGE
 Item No.: 2
 Transcript No.: 75
 Date: 03-28-2003

Yeas: 70 Nays: 19 Absent: 00 Excused: 09

Voting yea: Representatives Anderson, Armstrong, Berkey, Blake, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clibborn, Cody, Conway, Cooper, Darneille, Dickerson, Dunshee, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, McMorris, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Pearson, Pettigrew, Pflug, Priest, Rockefeller, Romero, Ruderman, Santos, Shabro, Simpson, Skinner, Sommers, Sullivan, Tom, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representatives Ahern, Bailey, Benson, Clements, Condotta, Cox, Crouse, DeBolt, Delvin, Hinkle, Holmquist, McMahan, Mielke, Orcutt, Roach, Schindler, Schoesler, Sehlin, Sump

Excused: Representatives Alexander, Boldt, Edwards, Eickmeyer, Mastin, Quall, Schual-Berke, Talcott, Upthegrove

INTEGRATED PERMIT SYSTEM

Second Substitute Senate Bill 5694

BACKGROUND

The environmental review and permitting process is controlled by a number of statutes. It has been suggested that the integration of the documentation and procedures needed for agency decision-making would streamline the permitting process.

SUMMARY

By December 1, 2005, the Office of Permit Assistance (OPA) must develop: 1) a guide for creating a unified project decision support document for state and federal agencies and local governments; and 2) recommendations for an integrated permit system to integrate project design, review, permitting, and mitigation; recommendations for legislative changes needed to establish the system; and recommendations for full-scale testing of the system through a pilot project.

Meeting the requirements to develop a guide and recommendations is done through a pilot project of economic development significance. OPA must submit reports on its efforts on December 1, 2003, and December 1, 2005.

The act expires December 31, 2005, and has no legal force if not specifically funded in the budget.

RESOURCE IMPACTS

As a state agency with applicable permits, it is assumed that the Washington Department of Fish and Wildlife (WDFW) will be one of the participating agencies to implement the requirements of this bill. Given the time frame for product development, concurrent development of the guidance document for the unified project decision support document and the integrated permit system is assumed.

It is estimated that two Fish & Wildlife Biologist 4s will be required for the concurrent product development and that one Fish & Wildlife Biologist 3 will be needed for pilot project participation. No funding was specifically provided for these tasks, consequently existing staff will need to be re-assigned to complete this work, at the expense of other agency priorities.

FUNDING IMPACTS

No funding was provided for the department's task, therefore, existing funds will need to be diverted from other pre-existing work to complete the requirements of this bill.

FUNDING SOURCE

General Fund-State dollars from existing funding will be needed, as no funding was provided specifically to WDFW for this bill. Engrossed Substitute Senate Bill 5404, the biennial budget, includes

\$127,000 (FY04) and \$122,000 (FY05) to OFM to implement this bill.

COMMITTEES CREATED

None at this time.

WORK PLAN

To be developed.

TIMETABLE

A guidance document for creating a unified project decision support document for state and federal agencies and local government that is sufficient to support all regulatory decision making is due by December 1, 2005.

By December 1, 2005, OPA shall have developed recommendations for: 1) an integrated permit system to integrate the procedural aspects of project design, environmental review, permitting and mitigation; 2) legislative changes to statutory authorizations and administrative procedures needed to establish the system; and, 3) full-scale testing of the system through one or more pilot projects.

LEGISLATIVE REPORTS

Progress reports to the standing legislative committees with jurisdiction are due by December 1, 2003 and 2004. A final report is due by December 1, 2005.

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FINAL BILL REPORT

2SSB 5694

C 245 L 03
Synopsis as Enacted

Brief Description: Creating a pilot project to develop an integrated environmental permit system.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Swecker, Jacobsen, Horn, Doumit, Haugen and Rasmussen).

Senate Committee on Economic Development
Senate Committee on Ways & Means
House Committee on State Government
House Committee on Appropriations

Background: The environmental review and permitting process is controlled by a number of statutes. It has been suggested that the integration of the documentation and procedures needed for agency decision-making would streamline the permitting process.

Summary: By December 1, 2005, the Office of Permit Assistance must develop: (1) a guide for creating a unified project decision support document for state and federal agencies and local governments; (2) recommendations for an integrated permit system to integrate project design, review, permitting, and mitigation; recommendations for legislative changes needed to establish the system; and recommendations for full-scale testing of the system through a pilot project.

Meeting the requirements to develop a guide and recommendations is done through a pilot project of economic development significance. The office must submit reports on its efforts on December 1, 2003, and December 1, 2005.

The act expires December 31, 2005, and has no legal force if not specifically funded in the budget.

Votes on Final Passage:

Senate	48	0	
House	89	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 27, 2003

Roll Calls on a Bill: 5694 (2003-04)

Brief Description: Creating a pilot project to develop an integrated environmental permit system.

2003 Regular Session

Chamber: SENATE
Bill No.: 2SSB 5694
Description: 3RD READING & FINAL PASSAGE
Item No.: 35
Transcript No.: 63
Date: 03-16-2003

Yeas: 48 Nays: 00 Absent: 00 Excused: 01

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

Excused: Senator Poulsen

2003 Regular Session

Chamber: HOUSE
Bill No.: 2SSB 5694
Description: FP AS AMD BY THE HOUSE
Item No.: 15
Transcript No.: 89
Date: 04-11-2003

Yeas: 89 Nays: 00 Absent: 00 Excused: 09

Voting yea: Representatives Ahern, Anderson, Armstrong, Bailey, Benson, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hatfield, Hinkle, Holmquist,

Hudgins, Hunt, Hunter, Jarrett, Kagi, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Sommers, Sullivan, Sump, Tom, Upthegrove, Veloria, Wallace, Woods, and Mr. Speaker

Excused: Representatives Alexander, Berkey, Clements, Edwards, Hankins, Kenney, Skinner, Talcott, Wood

2003 Regular Session

Chamber: SENATE

Bill No.: 2SSB

Description: FINAL PASSAGE AS AMENDED BY THE HOUSE

Item No.: 9

Transcript No.: 99

Date: 04-21-2003

Yeas: 45 Nays: 00 Absent: 01 Excused: 03

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, Winsley, Zarelli

Absent: Senator Hargrove

Excused: Senators Rossi, Schmidt, West

REVIEW OF PERMIT DECISIONS BY STATE AGENCIES

Engrossed Substitute Senate Bill 5776

BACKGROUND

Under current statutes, numerous environmental and land use permits may be required from state and local agencies for a single development project proposal. Each permit requires a separate application, review process, and decision. Separate statutory provisions may apply for appeal of the final permit decisions. In 2002, the Legislature found that a coordinated permitting process, subject to the applicable environmental laws, is vital to the state's economic well-being. The 2002 Legislature created a permit coordination option for project applicants, administered by the Office of Permit Assistance (OPA) by written agreement with the project applicant and participating state agencies. Existing permit decision and appeal procedures are unaffected by the project permit coordination.

SUMMARY

A uniform, expedited, and coordinated permit appeal process is authorized for qualifying projects (1) located in counties designated as distressed areas and rural natural resources impact areas as defined in statute, (2) providing at least 30 full-time jobs, and (3) designated as qualifying projects by OPA. Certain permits, including certifications by the Energy Facility Site Evaluation Council (EFSEC) and local health districts, are exempt. If applicable, this appeal process is the exclusive process for

review of final state agency and local government environmental and land use permit decisions on the qualifying project. All existing environmental and land use permit review processes and standards are unaffected and remain intact.

A project applicant must request designation as a qualifying project by the office within 30 days after the first permit application for the project after the effective date of the act, but no later than December 31, 2010. The office must make a determination on the request, and, if designated, must notify permit agencies and the public of the designation.

Permit decision appeals for a qualifying project are consolidated before a single board within the Environmental Hearings Office. Board membership is constituted as the Shorelines Hearings Board. Board procedures, timelines, and standards of review are set forth. If the agency permit decision included a quasi-judicial hearing, then the board review is on the agency decision record. If no hearing was included, then the board conducts a de novo review of the permit decision.

Appeals from the board decision on the qualifying project are filed in superior court for Thurston County, but the superior court must certify the appeal for direct review by the Court of Appeals (with jurisdiction for the county in which the project is located) if the superior court

makes certain factual determinations as set forth in the bill.

RESOURCE IMPACTS

Only a small number of appeals (estimate 3) are anticipated. These will require 0.06 Fish & Wildlife Biologist 4 to coordinate WDFW's actions and 0.06 Fish & Wildlife Biologist 3 (0.02 FTE per appeal respectively) to provide technical input regarding the appeal. Assistant Attorney General time of \$7,500 would also be needed (\$2,500 per appeal).

FUNDING IMPACTS

No funding was provided; therefore, existing funds will need to be diverted from other pre-existing work to complete the requirements of this bill, as occurs with all hydraulic project approval appeals.

FUNDING SOURCE

General Fund-State dollars from existing funding will be needed, as no specific funding was provided.

COMMITTEES CREATED

None at this time.

WORK PLAN

Not yet developed.

TIMETABLE

Indeterminate, as an appeal is required to trigger the process. The bill specifies the number of days required between specific actions in the appeal process.

No requests for appeal under this bill may be filled after December 31, 2010.

LEGISLATIVE REPORTS

None

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FINAL BILL REPORT

ESSB 5776

C 393 L 03

Synopsis as Enacted

Brief Description: Providing an appeal process for state agency and local government permit decisions for economic development projects.

Sponsors: Senate Committee on Land Use & Planning (originally sponsored by Senators Doumit, Morton, Hargrove, Mulliken, Rasmussen, Swecker, Haugen, Zarelli, Reardon, Parlette, McAuliffe and Winsley).

Senate Committee on Land Use & Planning

Senate Committee on Ways & Means

House Committee on State Government

House Committee on Appropriations

Background: Under current statutes, numerous environmental and land use permits may be required from state and local agencies for a single development project proposal. Each permit requires a separate application, review process, and decision. Separate statutory provisions may apply for appeal of the final permit decisions. In 2002, the Legislature found that a coordinated permitting process, subject to the applicable environmental laws, is vital to the state's economic well-being. The 2002 Legislature created a permit coordination option for project applicants, administered by the Office of Permit Assistance by written agreement with the project applicant and participating state agencies. Existing permit decision and appeal procedures are unaffected by the project permit coordination.

Summary: A uniform, expedited, and coordinated permit appeal process is authorized for qualifying projects (1) located in counties designated as distressed areas and rural natural resources impact areas as defined in statute, (2) providing at least 30 full-time jobs, and (3) designated as qualifying projects by the Office of Permit Assistance. Certain permits, including certifications by the Energy Facility Site Evaluation Council and local health districts, are exempt. If applicable, this appeal process is the exclusive process for review of final state agency and local government environmental and land use permit decisions on the qualifying project. All existing environmental and land use permit review processes and standards are unaffected and remain intact.

A project applicant must request designation as a qualifying project by the office within 30 days after the first permit application for the project after the effective date of the act, but no later than December 31, 2010. The office must make a determination on the request, and, if designated, must notify permit agencies and the public of the designation.

Permit decision appeals for a qualifying project are consolidated before a single board within the Environmental Hearings Office. Board membership is constituted as the Shorelines Hearings Board. Board procedures, timelines, and standards of review are set forth. If the agency permit decision included a quasi-judicial hearing, then the board review is on the agency decision record. If no hearing was included, then the board conducts a de novo review of the permit decision.

Appeals from the board decision on the qualifying project are filed in superior court for Thurston County, but the superior court must certify the appeal for direct review by the Court of Appeals (with jurisdiction for the county in which the project is located) if the superior court makes certain factual determinations as set forth in the bill.

Votes on Final Passage:

Senate	45	4
House	88	8 (House amended)
Senate	31	17 (Senate concurred)

Effective: May 20, 2003

Roll Calls on a Bill: 5776 (2003-04)

Brief Description: Providing an appeal process for state agency permit decisions.
Revised for 1st Substitute: Providing an appeal process for state agency and local government permit decisions for economic development projects.

2003 Regular Session

Chamber: SENATE
Bill No.: ESSB 5776
Description: 3RD READING & FINAL PASSAGE
Item No.: 10
Transcript No.: 65
Date: 03-18-2003

Yeas: 45 Nays: 04 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Finkbeiner, Franklin, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, West, Winsley, Zarelli

Voting nay: Senators Fairley, Fraser, Kohl-Welles, Thibaudeau

2003 Regular Session

Chamber: HOUSE
Bill No.: ESSB 5776
Description: FP AS AMD BY THE HOUSE
Item No.: 38
Transcript No.: 92
Date: 04-14-2003

Yeas: 88 Nays: 08 Absent: 00 Excused: 02

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Carrell, Chandler, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Eickmeyer,

Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDonald, McIntire, McMahan, McMorris, Mielke, Miloscia, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Ruderman, Santos, Schindler, Schoesler, Sehlin, Shabro, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representatives Chase, Kirby, McDermott, Moeller, Romero, Schual-Berke, Simpson, Upthegrove

Excused: Representatives Cox, Edwards

2003 Regular Session

Chamber: SENATE

Bill No.: ESSB 5776

Description: FINAL PASSAGE AS AMENDED BY THE HOUSE

Item No.: 15

Transcript No.: 105

Date: 04-27-2003

Yeas: 31 Nays: 17 Absent: 01 Excused: 00

Voting yea: Senators Brown, Deccio, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Poulsen, Prentice, Rasmussen, Reardon, Regala, Sheldon, B., Sheldon, T., Shin, Spanel, Swecker, Thibaudeau, Winsley, Zarelli

Voting nay: Senators Benton, Brandland, Carlson, Esser, Finkbeiner, Hale, Hewitt, Honeyford, Horn, Johnson, Mulliken, Parlette, Rossi, Schmidt, Sheahan, Stevens, West

Absent: Senator Roach

2003 1st Special Session

Chamber: SENATE

Bill No.: ESSB 5776

Description: FINAL PASSAGE AS AMENDED BY THE HOUSE

Item No.: 15

Transcript No.: 1

Date: 05-12-2003

Yeas: 31 Nays: 17 Absent: 01 Excused: 00

Voting yea: Senators Brown, Deccio, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Poulsen, Prentice, Rasmussen, Reardon, Regala, Sheldon, B., Sheldon, T., Shin, Spanel, Swecker, Thibaudeau, Winsley, Zarelli

Voting nay: Senators Benton, Brandland, Carlson, Esser, Finkbeiner, Hale, Hewitt, Honeyford, Horn, Johnson, Mulliken, Parlette, Rossi, Schmidt, Sheahan, Stevens, West

Absent: Senator Roach

FISH AND WILDLIFE RECREATIONAL LICENSES

Senate Bill 5893

BACKGROUND

Recreational fishing and hunting license documents are sold by dealers around the state through an automated licensing system. In addition to the cost of a license, a buyer pays a dealer fee and a transaction fee as set by the Fish and Wildlife Commission (Commission). The transaction fee, currently set at 9.5 percent of the cost of the license or permit, is paid to the contractor for the automated license system.

Existing law provides express authority to collect a transaction fee on the sale of recreational licenses, but is silent on the sale of other documents issued through the automated license system, such as special hunt permits or raffles.

SUMMARY

The Commission may set a transaction fee for any recreational document issued through the automated licensing system.

RESOURCE IMPACTS

The Washington Department of Fish and Wildlife (WDFW) division staff time is necessary to provide technical and financial support to implement transaction fees on additional recreational documents processed in the automated licensing system.

FUNDING IMPACTS

Minimal staff time will be necessary for meetings, developing business rules, reconciling transaction fees and implementing a communication plan.

FUNDING SOURCE

None

COMMITTEES CREATED

None required.

WORK PLAN

- Identify recreational documents currently not assessed 9.5 percent transaction fee.
- Present to the WDFW Director and the Commission that all recreational documents processed in the automated licensing system will have a transaction fee
- File CRC 105 to change word "license" to "document" in WAC 220-55-180 that establishes 9.5 percent transaction fee adopted by the Commission.
- Modify business catalog in recreational automated licensing system.

TIMETABLE

On or before August 31, 2003

LEGISLATIVE REPORTS

None

WDFW STAFF CONTACT

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FINAL BILL REPORT

SB 5893

C 389 L 03

Synopsis as Enacted

Brief Description: Allowing the fish and wildlife commission to set a transaction fee on recreational documents issued through an automated licensing system.

Sponsors: Senator Oke.

Senate Committee on Parks, Fish & Wildlife
House Committee on Fisheries, Ecology & Parks

Background: Recreational fishing and hunting license documents are sold by dealers around the state through an automated licensing system. In addition to the cost of a license, a buyer pays a dealer fee and a transaction fee as set by the Fish and Wildlife Commission. The transaction fee, currently set at 9.5 percent of the cost of the license or permit, is paid to the contractor for the automated license system.

Existing law provides express authority to collect a transaction fee on the sale of recreational licenses, but is silent on the sale of other documents issued through the automated license system, such as special hunt permits or raffles.

Summary: The Fish and Wildlife Commission may set a transaction fee for any recreational document issued through the automated licensing system.

Votes on Final Passage:

Senate	49	0
House	94	4

Effective: July 27, 2003

Roll Calls on a Bill: 5893 (2003-04)

Brief Description: Allowing the fish and wildlife commission to set a transaction fee on recreational documents issued through an automated licensing system.

2003 Regular Session

Chamber: SENATE
Bill No.: SB 5893
Description: 3RD READING & FINAL PASSAGE
Item No.: 14
Transcript No.: 65
Date: 03-18-2003

Yeas: 49 Nays: 00 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Sheldon, T., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

2003 Regular Session

Chamber: HOUSE
Bill No.: SB 5893
Description: FINAL PASSAGE
Item No.: 13
Transcript No.: 95
Date: 04-17-2003

Yeas: 94 Nays: 04 Absent: 00 Excused: 00

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Benson, Berkey, Blake, Buck, Bush, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cooper, Cox, Crouse, Darneille, DeBolt, Delvin, Dickerson, Dunshee, Edwards, Eickmeyer, Ericksen, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi,

Kenney, Kessler, Kirby, Kristiansen, Lantz, Linville, Lovick, Mastin, McCoy, McDermott, McDonald, McIntire, McMorris, Mielke, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Pearson, Pettigrew, Pflug, Priest, Quall, Roach, Rockefeller, Romero, Ruderman, Santos, Schindler, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, Woods, and Mr. Speaker

Voting nay: Representatives Boldt, Cairnes, Carrell, McMahan

SHELLFISH LICENSE FEE

Substitute Senate Bill 6073

BACKGROUND

To ensure the health of consumers, the Department of Health's (DOH) Environmental Health Program conducts testing and monitoring for biotoxins of shellfish from both commercial beds and beaches used by recreational shellfishers. The funding source for this program is the state general fund.

Harmful algal blooms occurring along the Washington coast may cause increased levels of domoic acid, which can trigger closure of the recreational and commercial shellfish harvest. The Olympic Region Harmful Algal Bloom (ORHAB) monitoring program is a collaboration of government, academia, business, and tribes established to study harmful algal blooms on the Washington coast. The program is based in the Olympic Natural Resources Center at the University of Washington. The objectives of the program are to understand the environmental conditions that cause blooms, and to develop models to predict and mitigate the effects of harmful algal blooms.

A personal use shellfish and seaweed license is required to dig for or possess seaweed or shellfish. The fee for the resident license is \$7. The fee for the nonresident license is \$20. The fee for a resident combination-fishing license is \$36; the fee for a nonresident combination license is \$72.

SUMMARY

Surcharges are added to personal use shellfish license fees to fund (1) biotoxin testing and monitoring by DOH of beaches used for recreational shellfishing and (2) monitoring by the ORHAB monitoring program of the Olympic Natural Resources Center at the University of Washington.

The surcharge increases resident and nonresident shellfish licenses by \$3, and the resident and nonresident combination fishing licenses by \$2.

Amounts collected from the surcharge are deposited in the general fund-local account managed by DOH. \$150,000 of the revenues goes to the ORHAB monitoring program.

These fee increases take effect in the Department of Fish and Wildlife's (WDFW) license fee structure beginning July 1, 2003.

RESOURCE IMPACTS

WDFW Division staff will provide technical support to implement the new fees. Staff support will include communicating with Dealers, DOH, developing timeline for implementation, and business rule development.

FUNDING IMPACTS

Additional staff time to implement new fee, and establish reconciliation procedures.

None

WDFW STAFF CONTACT

FUNDING SOURCE

No funds were provided to implement this legislation.

Frank J. Hawley, Licensing Manager
Business Services Program
(360) 902-2453
hawlefjh@dfw.wa.gov

COMMITTEES CREATED

The Shellfish Surcharge Committee will be established and will include DOH, MCI, and the Department of Fish and Wildlife.

WORK PLAN

- Develop and implement new business rules for recreational automated licensing system.
- Develop and implement reconciliation procedures for the surcharge.
- Develop and implement communication plan outlining how the surcharge will be implemented.

TIMETABLE

- Fee increase implemented July 1, 2003.
- DOH updated June 23, 2003.
- WDFW Dealers sent broadcast notifications: June 26 through July 1, 2003.

LEGISLATIVE REPORTS

FINAL BILL REPORT SSB 6073

C 263 L 03
Synopsis as Enacted

Brief Description: Authorizing the increase of shellfish license fees.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Rossi and Doumit).

**Senate Committee on Ways & Means
House Committee on Appropriations**

Background: To ensure the health of consumers, the Department of Health's Environmental Health Program conducts testing and monitoring for biotoxins of shellfish from both commercial beds and beaches used by recreational shellfishers. The funding source for this program is the state general fund.

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Summary: Surcharges are added to personal use shellfish license fees to fund (1) biotoxin testing and monitoring by the Department of Health of beaches used for recreational shellfishing and (2) monitoring by the ORHAB monitoring program of the Olympic Natural Resources Center at the University of Washington.

The surcharge increases resident and nonresident shellfish licenses by \$3, and the resident and nonresident combination fishing licenses by \$2.

Amounts collected from the surcharge are deposited in the general fund-local account managed by the Department of Health. \$150,000 of the revenues goes to the ORHAB monitoring program.

These fee increases take effect in the Department of Fish and Wildlife's license fee structure beginning July 1, 2003.

Votes on Final Passage:

Senate	48	1
House	79	18

Effective: July 1, 2003

Roll Calls on a Bill: 6073 (2003-04)

Brief Description: Authorizing the increase of shellfish license fees.

2003 Regular Session

Chamber: SENATE
Bill No.: SSB 6073
Description: 3RD READING & FINAL PASSAGE
Item No.: 25
Transcript No.: 95
Date: 04-17-2003

Yeas: 48 Nays: 01 Absent: 00 Excused: 00

Voting yea: Senators Benton, Brandland, Brown, Carlson, Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hale, Hargrove, Haugen, Hewitt, Honeyford, Horn, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Parlette, Poulsen, Prentice, Rasmussen, Reardon, Regala, Roach, Rossi, Schmidt, Sheahan, Sheldon, B., Shin, Spanel, Stevens, Swecker, Thibaudeau, West, Winsley, Zarelli

Voting nay: Senator Sheldon, T.

2003 Regular Session

Chamber: HOUSE
Bill No.: SSB 6073
Description: FINAL PASSAGE
Item No.: 32
Transcript No.: 102
Date: 04-24-2003

Yeas: 79 Nays: 18 Absent: 00 Excused: 01

Voting yea: Representatives Alexander, Anderson, Bailey, Berkey, Blake, Boldt, Buck, Bush, Cairnes, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Conway, Cooper, Cox, Darneille, Delvin, Dickerson, Dunshee, Edwards, Eickmeyer, Flannigan, Fromhold, Gombosky, Grant, Haigh, Hankins, Hatfield, Hinkle, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, McMahan, McMorris, Miloscia, Moeller, Morrell, Morris, Murray,

Newhouse, O'Brien, Pearson, Pettigrew, Priest, Quall, Rockefeller, Romero, Ruderman, Santos, Schoesler, Schual-Berke, Sehlin, Shabro, Simpson, Skinner, Sommers, Sullivan, Sump, Talcott, Tom, Upthegrove, Veloria, Wallace, Wood, and Mr. Speaker

Voting nay: Representatives Ahern, Armstrong, Benson, Carrell, Condotta, Crouse, DeBolt, Ericksen, Holmquist, Kristiansen, Mastin, Mielke, Nixon, Orcutt, Pflug, Roach, Schindler, Woods

Excused: Representative McDonald